

RECORDS EXTRACT OF APPELLANT

IN THE
APPELLATE COURT
OF MARYLAND

September Term 2022,
No. 1145 & No. 1457

JUSTIN HOLDER

Appellant

V.

JEFFREY YOUNG

Appellee

Appeal from the Circuit Court of Washington County
The Honorable Andrew F. Wilkinson

RECORD EXTRACT

Volume 6

JUSTIN HOLDER
APPELLANT

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG

Plaintiff

v.

JUSTIN HOLDER, Et Al

Defendant(s)

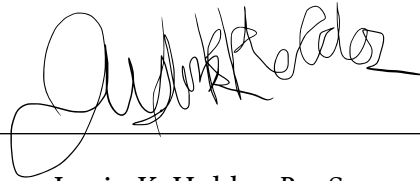
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CASE NO.: C-21-CV-20-000371

NOTICE OF APPEAL

COMES NOW Defendant, Justin Kyle Holder, in proper person, and files this Defendant's Notice of Appeal, in accordance with MD Rule 8-202 and MD. Courts and Judicial Proceedings Code Ann. § 12-301.

Respectfully submitted,



Justin K. Holder, *Pro Se*
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of September, 2022, a copy of the foregoing Defendant's Notice of Appeal was served via the MDEC system to:

R. David Pembroke, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*



Justin K. Holder, *Pro Se*

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY L. YOUNG,	*	
		*
Plaintiff	*	
		*
v.	*	Case No. C-21-CV-20-000371
		*
JUSTIN HOLDER, <i>et. al.</i> ,	*	
		*
Defendants	*	
		*
* * * * *		

**DEENA HOLDER’S MOTION TO DISMISS FOR FAILURE TO JOIN
NECESSARY PARTIES**

The Defendant Deena Holder, by her counsel, moves that the Plaintiff’s action be dismissed for failure to join necessary parties.

Procedural Background and Mr. Young’s Allegations

On September 16, 2020, Jeffrey Young filed this action seeking declaratory and injunctive relief concerning his alleged exclusive ownership of two parcels of real property located in Keedysville, Washington County, Maryland. The two parcels are labeled and shown as “Parcels 2 and 3” on Plat 2499. *See Complaint* ¶ 3. Plat 2499 is recorded among the Land Records of Washington County. (A copy of Plat 2499 is attached as Exhibit A to Mr. Young’s Complaint.)

Mr. Young named two individuals, Justin Holder and Deena Holder, as Defendants. Mr. Young also named All Unknown Persons as additional Defendants, asking that the title he seeks to establish as to Parcels 2 and 3 herein be good against the world. He sought and obtained Court permission to publish a notice of proceedings to the “All Unknown Persons” Defendants.

Parcels 2 and 3 on Plat 2499 are long, relatively narrow strips of property at the outer edges of Mr. Young’s Property on Plat 2499. Deena Holder asserts rights to traverse portions of Parcels 2 and 3 pursuant to an express, recorded easement. Her right to use and enjoy her easement over portions of Parcels 2 and 3 to access her property is at issue. However, Mr. Young has not named all affected parties as Defendants.

In his Complaint, Mr. Young seeks declaratory and equitable relief, asking the Court to decree that he is the sole owner of Parcels 2 and 3, that the Defendants have no estate, right, title, or interest in Parcels 2 and 3, that the Defendants be forever barred from asserting any right, title, or estate of any nature in or to Parcels 2 and 3, that the Defendants be enjoined from entering Parcels 2 and 3, and that his alleged exclusive title to Parcels 2 and 3 be quieted. Mr. Young has pleaded for relief not only against the named Defendants, but against all persons, *i.e.*, against the world.

On October 26, 2020, Justin Holder filed an Answer asserting, *inter alia*, that he has superior title to the subject properties, and that the properties were subject to certain public and/or private rights of way. The same day, Deena Holder filed an Answer, also asserting, *inter alia*, that she has a right to traverse Parcels 2 and 3 to access her properties, pursuant to her recorded easement, and also as a rightful user of certain public and/or private rights of way.

On October 27, 2020, Uncle Eddies Brokedown Palace, LLC filed an Answer, responding to the published notice of proceedings, asserting that it had a right to use the subject properties for access to its land, pursuant to the recorded easement, and also as a rightful user of certain public and/or private rights of way.

Deena Holder's Easement Rights

Ms. Holder owns properties commonly known as 25 and 28 Antietam Drive. Attached as **Exhibit A** is recorded Plat No. 10955, which shows Ms. Holder's 25 Antietam Drive property depicted and labeled as "N/F Deena Holder Liber 5824, folio 352", and including "Existing Dwelling #25". The same Plat shows Ms. Holder's 28 Antietam Drive property depicted and labeled as "Proposed Reconfigured Parcel 127, 18,068 S.F., 0.41 AC.", and including "Existing Dwelling #28." Together, those two parcels are referred to herein as "Deena Holder's Properties".

Deena Holder's Properties include a deeded right of way (referred to herein as the "Wagon Road Easement"). The Wagon Road Easement first appears in the chain of title to Deena Holder's Properties at Liber WMcKK 6, page 363. Specifically, the March 22, 1872 Deed from Cost to Kreitzer, recorded at Liber 6, page 363 included the following grant:

“The said Aaron Cost and Malinda Cost do hereby grant unto the said David Kreitzer his heirs and assigns forever, the use of a waggon road to and from said land hereby conveyed commencing at a stone planted on the West margins of the said Washington County Rail Road at what said Cost calls his Rail Road crossing and running thence along the Western boundaries of said road South 30 $\frac{3}{4}$ degrees East 14 perches to a stone, South 36 degrees East 10 6/10 perches to the lands of Jacob Keedy thence along the division line between said Aaron Cost and Jacob Keedy until __ intersect the road leading from said Jacob Keedy’s house to the County road leading from Keedysville to Martin Eakles’ Mill....”¹

A copy of the 1872 Deed from Cost to Kreitzer is attached as **Exhibit B**. Attached as **Exhibit C** is a title opinion letter dated July 2020 stating that the Deena Holder Properties have and enjoy the benefit of the Wagon Road Easement.

Ms. Holder’s Wagon Road Easement has been located and platted by licensed Maryland surveyor George Nagel in 2020. Mr. Nagel’s drawing of the easement location is attached as **Exhibit D**. Mr. Nagel’s drawing, and historical maps and other evidence, demonstrate that Ms. Holder’s Wagon Road Easement traverse the same narrow strips of land Mr. Young is claiming to own, Parcels 2 and 3. Mr. Nagel’s drawing depicts how Ms. Holder’s predecessors would cross the railroad tracks, and then proceed along the edge of the railroad along the Wagon Road, which traverses onto Parcel 3, claimed by Mr. Young in this action. The route from the terminus of the shaded area on Mr. Nagel’s drawing to the public road (Dogstreet Road), runs along and over Parcel 2, claimed by Mr. Young in this action. Thus, Mr. Young seeks to extinguish the Wagon Road Easement which Ms. Holder owns of record. Not incidentally, he also seeks to extinguish the rights of any other person to use the Wagon Road.

Young’s request to extinguish County rights of way requires County’s presence.

Attached collectively marked as **Exhibit E** are several of the historical maps which depict a road or lane running from the area along the railroad tracks (where the Wagon Road

¹ Jacob Keedy’s house, referred to in the last phrase of the easement grant, is believed to be the house in which Mr. Young now resides. Historical maps show public roads traversing Mr. Young’s property, running both along Parcels 2 and 3 to Dogstreet Road, and running down past the area of Mr. Young’s house.

Easement is located) over Parcels 2 and 3. The Wagon Road enters Parcel 3 and then branches, with one arm running down Parcel 2 to Dogstreet Road, and the second branch running across Mr. Young's Parcel 1 back near his house. A decision about what public rights of way exist over the Young property in addition to the Wagon Road Easement is not yet ripe for the Court's ruling in this action. However, persons or entities whose rights may be affected by Mr. Young's requested relief should be joined as parties so they can participate in, and be bound by, the eventual decision.

Ms. Holder's Wagon Road Easement (1) runs onto the land Mr. Young is claiming to own exclusively in this action; and (2) connected to a public road. Washington County has indicated that it has not abandoned any public road on Mr. Young's property. Washington County is a necessary party in this action, because Mr. Young is effectively trying to extinguish any and all county roads or rights of way across his property.²

In this proceeding, Mr. Young is expected to argue that the Wagon Road Easement was abandoned, or otherwise terminated. His arguments may be addressed on a future day in this case. For the purposes of this Motion, it is apparent that Washington County should be joined as a party Defendant to protect its interest in its public roads.³

Statutes and Rules Require Joinder

Cts. & Jud. Proc. § 3-405 (a) requires that "a person who has or claims any interest which would be affected by the declaration, shall be made a party."

Rule 2-211 requires joinder of a person "if in the person's absence

(1) complete relief cannot be accorded among those already parties, or

² Plat 2499 also shows Parcel 2 as running down into the County's 45 foot wide right of way for Dogstreet Road. Given the relief Mr. Young requests in his Complaint, another reason the County should be joined as a Defendant is that he seeks exclusive ownership over a significant portion of the County's Dogstreet Road right of way.

³ In addition, the owners of Lot 11 in the Stonecrest subdivision, David and Erin Ickes, have claimed or are using portions of the Parcel 3 which Mr. Young claims to own exclusively in this action. Attached collectively marked as **Exhibit F** are photographs showing plantings and electric lights placed by others in the area Mr. Young claims to be exclusively possessing. Because they are using property which Mr. Young alleges to possess exclusively, they should also be joined as defendants.

- (2) disposition of the action may impair or impede the person's ability to protect a claimed interest relating to the subject of the action or may leave persons already parties subject to a substantial risk of incurring multiple or inconsistent obligations by reason of the person's claimed interest."

An action to quiet title under Md. Code Ann. Real Prop. Art. § 14-108 requires, under section (b), that "[a]ny person who appears of record, or claims to have a hostile outstanding right, shall be made a defendant in the proceedings." Md. Code Ann. Real Prop. Art. § 14-608 mandates that "[t]he plaintiff shall name as defendants in an action under this subtitle the persons having adverse claims to the title of the plaintiff that are of record or known to the plaintiff or reasonably apparent from an inspection of the property against which a determination is sought."

One purpose of Rule 2-211's requirement that necessary parties be joined is to prevent 'multiplicity of litigation by assuring a determination of the entire controversy in a single proceeding.' *Cooper v. Bikle*, 334 Md. 608, 616 (1993), (quoting *Mahan v. Mahan*, 320 Md. 262, 272 (1990)). In *Cooper*, the Court of Appeals also cited with approval to *Wright on Federal Practice and Procedure*: Civil 2d § 1602, stating that the Rule requiring joinder of necessary parties is "designed to protect the interests of absent persons as well as those already before the court from multiple litigation or inconsistent judicial interpretation."

If a person has an apparent interest in the property which is the subject of a quiet title action, that person must be made a party. Md. Code Ann. Real Prop. Art. § 14-608. The statute and Rule are aimed at is judicial economy and finality. In this action, an order confirming Mr. Young's ownership of Parcels 2 and 3, as he requests, or stating that his interest in those parcels is subject to the prior recorded Wagon Road Easement, as Ms. Holder contends, should be the final word on the ownership of Parcels 2 and 3. But as the case stands now, property owners neighboring Mr. Young who are possessing, or might claim ownership or interest in or to, portions of Parcels 2 and 3 would not be bound by the Court's final order. As it stands now, Washington County and its citizens would be affected by Mr. Young's requested relief, if the Court were to determine that a public right of way

was extinguished. This could result in Ms. Holder, and Mr. Young, having to litigate in future cases about the same issues, *viz.*, who owns and has rights to use Parcels 2 and 3?

Any argument by Mr. Young that he does not believe the claims or interests of the other neighboring property owners, or the government entities concerning the roadways, exist or are averse to him does not allow him to avoid joining them. “Failure to join a necessary party constitutes a defect in the proceedings that cannot be waived by the parties.” *LaSalle Bank, N.A. v. Reeves*, 173 Md. App. 392, 402 (2007).

This case involves a number of complicated real property issues. It will not be swift and easy to try or decide. Accordingly, it is important that all necessary parties be joined to avoid multiplicity of litigation, and potentially conflicting rulings on the same issues.

Ms. Holder respectfully requests that the Court order that Mr. Young join Washington County, and David Ickes and Erin Ickes as party defendants in this action within 15 days after the Court’s ruling, or dismiss this action.

Respectfully submitted,



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 129-3 West Patrick Street
 Frederick, Maryland 21701
 (301) 698-5000
 matt@mbrlaw.com
 CPF ID No. 8212010403
Attorney for Defendant Deena Holder

REQUEST FOR HEARING

Mr. Clerk:

The Defendant requests a hearing on the above Motion, and any response thereto.



Matthew B. Ruble

Certificate of Service

I certify that on the 13th day of June 2021, a copy of the foregoing Motion to Dismiss and proposed Order was served on the following registered users who have appeared in this action and who are entitled to service as permitted by MDEC:

R. David Pembroke, Esquire
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*Attorney for Defendant Uncle Eddies
 Brokedown Palace, LLC*



Matthew B. Ruble

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

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Jeffrey Young
Plaintiff

vs.

Case No. C-21-CV-20-000371

Justin Holder, et al.
Defendant(s)

**MOTION IN SUPPORT OF DEFENDANT DEENA HOLDER MOTION TO DISMISS AND
MOTION FOR FINAL JUDGEMENT OF RECORDED TITLE TO PARCEL 3**

The Defendant, in proper person, makes Motion in support of Defendant Deena Holder's Motion to Dismiss Complaint under Md. Code Ann. Real Prop. Art. § 14-608, and Rule 2-211, that the Plaintiff's action be dismissed for failure to join all necessary parties. The Defendant moves for Final Judgement of Plaintiff Complaint under Md. Code Ann. Courts and Judicial Proc. Art. § 3-406 "Any person interested under a deed.....may have determined any question of construction or validity arising under the instrument....obtain a declaration of rights, status, or other legal relations under it.". Md. Code Ann. Courts and Judicial Proc. Art. § 3-411 "The declaration may be affirmative or negative in form and effect and has the force and effect of a final judgment or decree." Md. Code Ann. Courts and Judicial Proc. Art. § 3-409(a) ".....court may grant a declaratory judgment or decree in a civil case, if it will serve to terminate the uncertainty or

controversy giving rise to the proceeding, and if:” Md. Code Ann. Courts and Judicial Proc. Art. § 3-409(a)(3) “A party asserts a legal relation, status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it.”. Plaintiff has alleged “an actual controversy” paragraph 8 of the Plaintiff Complaint, and Defendant has moved for Judgment of said controversy. The court can make final judgement before the conclusion of the proceeding Md. Code Ann. Courts and Judicial Proc. Art. § 3-409(e) “A court may order a speedy hearing of an action of a declaratory judgment and may advance it on the calendar.” Rule 2-519(a) “**Generally.** A party may move for judgment on any or all of the issues in any action at the close of the evidence offered by an opposing party.....”Rule 2-602(b) ”**When Allowed.** If the court expressly determines in a written order that there is no just reason for delay, it may direct in the order the entry of a final judgment:” Rule 2-602(b)(1) “as to one or more but fewer than all of the claims or parties; ...”

Wherefore the Plaintiff has prayed for Declaratory Judgement under Md. Code Ann. Courts and Judicial Proc. Art. § 3-406 at paragraph 6 of Plaintiff Complaint and Defendant plead in Answer *inter alia* Defendant Justin Holder is the Legal Recorded “paper” Title owner to all of the land described as “parcel 3” as stated in paragraph 3 of Plaintiff Complaint and therefore has a concrete interest in the Judgement in which Plaintiff has prayed . Or Defendant request Partial Summary Judgment that Defendant Justin Holder is the Record Title owner of the recorded title to “parcel 3” at paragraph 3 of Plaintiff Complaint **in the Alternative and only if** the Plaintiff does Amend the Complaint and join the proper parties, and for good and proper reasons stated herein:

DISMISSAL FOR FAILURE TO JOIN PARTIES

Defendant does support co-defendant Motion to Dismiss Quiet Title and Declaratory Judgement for failure to Join Parties. Defendant Justin Holder, as discussed below in Final Judgement of Recorded Title to Parcel 3 section, is the undisputed by Plaintiff Record Title Holder of Parcel 3 and does request complete adjudication of all encumbrance of his title and to remove all clouds and prevent vexatious litigation of his title and prevent collateral attack.¹ Defendant has made motion to Join Parties pursuant to rule 2-211 which was subsequently Opposed and denied by the Honorable Court, and that motion and reply to Opposition thereto are incorporated in this Motion for reference.

Plaintiff has shown no ambition removing a cloud from the title to the property in question. Taking Judicial Knowledge of the 12 foot wide Atlas of Roads of Washington County drawn by J.B. Ferguson and company in 1936 and revised in 1937 hanging in the Land Records Room at the County Courthouse, that map depicts a public road traveling directly through the lands that are a matter of this action. Plaintiff has failed to join the Town of Keedysville, Washington County Board of County Commissioners, or the State of Maryland to the benefit of the State Highway Administration to this lawsuit, as parties that could have some rights over said parcels. Leave Defendant whom requires complete adjudication of his recorded title and to remove all clouds, upon the court granting final judgment in his favor with a vexatious cloud still on his title. The Deed in 1966 at Liber 434 Folio 776 conveyed parcel 1 as a warranty, however that deed conveyed

“First, respondent's quiet title action specifically alleges that it has valid title to the property in question. Under § 14-108 of the Real Property Article, respondent has the burden of proving title (and anyone challenging that title has the burden of proving superior title), thus the full chain of title should be produced in the record of that case. See *Porter v. Schaffe*, 126 Md.App. 237, 265, 728 A.2d 755, 769, cert. denied, 355 Md. 613, 735 A.2d 1107 (1999). In addition, the very purpose of a quia timet action is to resolve clouds on title so to protect the owner of legal title to the property in question. See *Wathen v. Brown*, 48 Md.App. 655, 658, 429 A.2d 292, 294 (1981). Regardless of the outcome of a resolution of petitioner's cases to quiet 154*154 title, if respondent's case is not consolidated with those cases, a cloud will remain on the title by virtue of respondent's pending quiet title case. The only way in which to resolve the factual issues and ultimate question of who owns legal title to the property is to have all three cases presented to the same trier of fact within one case.”

¹ *Jenkins v. City of College Park*, 840 A. 2d 139 - Md: Court of Appeals 2003

parcel 2 and 3 which are the matter of this action to Quiet Title, as Special Warranty by quit claim. Both Parcels 2 and 3 are strips of Land approximately 25 feet wide and hundreds of feet long, and physically located in the same or approximately same location of a public highway depicted on the 1936 Atlas hanging in the courthouse.

The Plaintiff has not joined any of the neighbors who adjoin the property plead in paragraph 3 of Plaintiff Complaint to this suit, and in 2015 the Court of Appeals decided the failure to join was fatal in that instance:

“‘We have long held that the "general rule [is] that ordinarily, in an action for a declaratory judgment, all persons interested in the declaration are necessary parties.’” Williams v. Moore, 215 Md. 181, 185, 137 A.2d 193, 196 (1957). Similar to this case, Williams involved a declaratory judgment action regarding an easement. In that case, at least two other property owners had an interest in the purported easement, because their properties abutted the easement, but were not named in the suit. This Court held that without all adjacent property owners (who could be affected by the declaratory judgment regarding the easement), the case had to be dismissed. Williams, 215 Md. at 186, 137 A.2d at 197. **In other words, the failure to join necessary parties was "fatal."** *Id.*” [Empahasis Added]
Rounds v. M-NCPPC, 109 A. 3d 639 - Md: Court of Appeals 2015.

Wherefore the Defendant Justin Holder does support Defendant Deena Holder’s Motion to Dismiss the suit with prejudice if the Plaintiff does not Amend the Complaint to add all parties that have an adverse claim or, as the *Rounds* supra court opined, abut the easement , “wagon road”, or public highway depicted on the Atlas hanging in the Land records room at the County Courthouse.

FINAL JUDGEMENT OF RECORDED TITLE TO PARCEL 3

The Plaintiff has not plead or offered any factual possession of Plaintiff recorded title to parcel 3 and in fact plead at paragraph 15 of Plaintiff Complaint alleged “ The last title owner of Parcel 3, shown on the aforesaid Plat, is unknown.....’”. Defendant offers the following factual

evidence available in the Land Records of Washington County, and does hereby request the honorable Court to take Judicial Notice under MD Rules of Evidence 5-201(b) “A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Of the following instruments recorded as follows: Liber 6414 Folio 219 et seq., Liber 434 Folio 776 et seq., Liber 659 Folio 580 et seq., Liber 885 Folio 110 et seq., and Liber 230 Folio 139 et seq. The Defendant has made motion in Defendant Bill *Quia Timet* as counter claim which is still active², Judge Cathel opining in *Jenkins v. City of College Park*, 840 A. 2d 139 - Md: Court of Appeals 2003 “In addition, the very purpose of a *quia timet* action is to resolve clouds on title so to protect the owner of legal title to the property in question. See Wathen v. Brown, 48 Md.App. 655, 658, 429 A.2d 292, 294 (1981)”. Defendant recorded title to all that land that described as “parcel 3” in this Complaint is described in deed held by Clerk at Liber 6414 Folio 219 et seq.³, and Defendant’s Bill *Quia Timet* and Opposition and Reply to same is incorporated herein for reference. Plaintiff in Opposition to Defendant’s Bill *Quia Timet* alleged a dispute to the undisputed facts contained in Defendant Affidavit in the pleadings, and did not provide any additional material evidence in form of affidavit to dispute said facts. The Defendant has only found evidence in the pleading (see footnote 3) to support and confirm Defendants undisputed facts and evidence contained in the Land Records.

² Defendant has made motion to Alter or Amend Order to dismiss “request” which Defendant found ambiguous and therefore requested clarity in Motion to Alter or Amend Judgement, and said motion is incorporated herein for reference.

³ Deed located at Liber 6414 Folio 219 et seq. Provides a factual description and lawful explanation of Defendant’s right to legal title of all the land described as “parcel 3” as it relates to this complaint. The deed further grants all remaining lands of Jenifer Dorsey Butt’s as described in Liber 659 Folio 580 (parcel 288 in Tax District 19 Keedysville, MD), where Plaintiff plead at paragraph 16 in Complaint, Plaintiff acquired title to “parcel 2” as it relates to this Complaint from the same Grantor Jenifer Dorsey Butt’s, and in paragraph 15 of Complaint alleges actual owner was unknown.

Therefore if Defendant adjudication of his title and to remove all clouds, as follows:

The “Stone” monument in Defendant's Bill *Quia Timet*⁴ must be a fact that is decided by the Honorable Court in the Affirmative or the Negative. Once the shared boundary of Plaintiff and Defendant is properly located, the court can expediently review chains of title using the instruments the Court has been requested to take Judicial Notice of, to confirm what land in fact the Grantor had the right to Grant as it pertains to Parcel 3 of this matter. At which point the Court will unambiguously find that the Defendant Justin Holder is the record title owner of all of “parcel 3” as it relates to paragraph 3 of Plaintiff Complaint, and the Plaintiff is not and can not dispute that fact. The first Monument in Plaintiff and Defendant recorded title is the Stone that is the subject of Declaratory Judgment requested in Defendant's Bill, and the matter can expeditiously move forward through the court with this fact adjudicated. The Stone Monument in Defendant's Bill was lost to antiquity in preparing plat 2488.

Expert Surveyor Frederic Frederick testified on March 16th, 2021 [Transcript Included as Exhibit 1 in Defendant reply to Opposition to Bill *Quia Timet* by Plaintiff] , see page 23 at line 20 et seq.] in a deposition said surveyor and/or crew looked but did not find the stone monument and instead set a new iron pin. Defendant in moving for Final Judgment will prove conclusively that even though a surveyor in 1988 did not find the Stone monument, the monument was there and is still there today. Professional Land Surveyor George Nagel of Fox and Associates did describe the Monument of the “Stone” as 'found' in deed Liber 6414 Folio 219 et seq. at the beginning of the Survey Certificate prepared for said

⁴ Bill *Quia Timet* may be an ancient common law remedy, however the remedy is not precluded by Real Property Article 14-115 of British Statutes as no longer in force. As Defendant read Real Property Article 14-108 stating an action could not be maintained when another action to test validity of title is pending, Defendant had no remedy in equity by Quiet Title. The Defendant undisputed by Plaintiff is in “actual possession” of part of the land described on deed Liber 6414 Folio 219 et seq. And as Recorded title draws possession to the Legal “paper”title Owner in “constructive possession of the entirety of all of his land, and as Real Property Article 14-108.1 (Ejectment) is only available to an owner NOT IN POSSESSION to recover possession, Defendant is denied a remedy at law. Therefore it was the decision of Defendant to pray Bill *Quia Timet* upon the Honorable Court as Defendant was in fear of his Record Title being disregarded in this suit.

deed (Folio 222 paragraph 2). That the Plaintiff can not dispute and will not dispute the Stone monument is the same monument as Plaintiff Predecessor deed located at Liber 434 Folio 776 et seq., The "fact" of the "Stone" that is a matter of Defendant's Bill, can be decided by a simple review of the title held by the Clerk at Liber 434 Folio 776 Paragraph 3 describing said "stone", and Liber 6414 Folio 222 Paragraph 2 describing said "stone" as "found". There has been no genuine dispute to the factual evidence in the land records from Plaintiff. The Stone monument described in Defendant title deed is in fact the same monument called for in the 1966 predecessor deed to Plaintiff Jeffrey Young's more recent title deed as described in Liber 885 Folio 111 paragraph 2 of the Washington County Land Records. Furthermore the Plaintiff in Deed at Liber 885 Folio 110 et seq. Calls to Defendant Predecessor Deed Liber 659 Folio 580 as his Western Boundary, which would unambiguously and undisputedly by the Plaintiff be the Eastern Boundary of what is now Defendant Justin Holder's title Deed, being the first call in said deed starting at the "found" Stone Monument and bearing south 453 feet to a "Hickory Stump" (was a Hickory Tree in Liber 230 Folio 139 parcel 4 13th line 80 years prior". "[t]he line of an adjacent tract, if known or established, may as well be a call in a deed as a natural object." *Dundalk Holding Co. v. Easter*, 195 Md.[488,] 495[, 73 A.2d 877, 879 (1950) and "Indeed, a call to an adjoining boundary controls over most other methods of description.... In our view, therefore, the latter description, which is based on calls to adjoining boundaries, is of greater reliability. That language is not ambiguous on its face, and therefore we must assume it expresses the intent of the parties to the deed. " *Union United v. Burton*, No. 2744, slip op. at 17-23 (July 18, 2007).

Wherefore it is undisputed by Plaintiff that Defendant Justin Holder is the recorded title holder to all that land described as "parcel 3" of this complaint and arguable as discussed in the *Jenkins supra* court "constructive fraud" as Plaintiff unambiguously plead at paragraph 15 the Record Title Holder

was unknown, and has been placed on notice by Justin Holder and has not Amended Complaint to accurately reflect the Record which is undisputed.

Wherefore the Defendant moves for Final Judgement as all evidence required to decide the fact has been presented, and is publicly available to all parties and undisputed by all parties. That Defendant has moved for the Court to Affirmatively decide in **Final Decree** that Justin Holder as a matter of Law is Recorded Title Holder to all the land described as “parcel 3” in Plaintiff Complaint and “parcel 3” as described in deed from Roy Redder et ux. To Harry Wickline in 1966 located at Liber 434 Folio 776 et seq. of the Land Records of Washington County, Maryland by Grant from Jenifer Dorsey Butts in 2020 located at Liber 6414 Folio 776 et seq. Of the Land Records of Washington County.

PARTIAL SUMMARY JUDGEMENT OF RECORDED TITLE TO “PARCEL 3”

Maryland Rule 2-501(a) provides: Any party may file a written motion for summary judgment on all or part of an action on the ground that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law. The motion shall be supported by affidavit if it is (1) filed before the day on which the adverse party's initial pleading or motion is filed or (2) based on facts not contained in the record. Rule 2-501(b) provides: A response to a motion for summary judgment shall be in writing and shall (1) identify with particularity each material fact as to which it is contended that there is a genuine dispute and (2) as to each such fact, identify and attach the relevant portion of the specific document, discovery response, transcript of testimony (by page and line), or other statement under oath that demonstrates the dispute. A response asserting the existence of a material fact or controverting any fact contained in the record shall be supported by an affidavit or other written

statement under oath. Rule 2-501(f) provides: The court shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law. By order pursuant to Rule 2-602(b), the court may direct entry of judgment (1) for or against one or more but less than all of the parties to the action, (2) upon one or more but less than all of the claims presented by a party to the action, or (3) for some but less than all of the amount requested when the claim for relief is for money only and the court reserves disposition of the balance of the amount requested. As such, when the material facts are not genuinely disputed, and the application of the law to those facts requires an outcome in favor of the moving party, the court should, pursuant to the rule, and in service of principles of judicial economy, grant judgment in favor of the moving party. To overcome a motion for summary judgment, the opposing party must demonstrate a genuine dispute as to a material fact by proffering facts that would be admissible in evidence. *See Hoffman Chev. v. Wash. Co. Nat'l Sav.*, 297 Md. 691, 711-15 (1983); *Shaffer v. Lohr*, 264 Md. 397, 404 (1972); *Broadfording Ch. v. Western Md. Ry.*, 262 Md. 84, 89 (1971). General allegations which do not establish admissible facts in detail and with precision are insufficient to prevent summary judgment. *Lynx, Inc. v. Ordnance Products*, 273 Md. 1, 7-8 (1974). *Brown v. Suburban Cadillac, Inc.*, 260 Md. 251, 256-57 (1971).

Maryland Rule 2-501 provides that the Court shall enter judgment in favor of the moving party if the motion and response establish that there is no genuine dispute of material fact and the moving party is entitled to judgment as a matter of law. One purpose of the summary judgment procedure is to determine whether there is an issue of fact sufficiently material to be tried. *Gross v. Sussex*, 332 Md. 247, 255, 630 A.2d 1156, 1160 (1993). Another purpose is to prevent the unnecessary expenditure of time and money in preparing for trial where there is no genuine issue as to a material fact. *Cheney v.*

Bell Nat'l Life Ins. Co., 70 Md. App. 163, 166, 520 A.2d 402, 404 (1987), *aff'd*, 315 Md. 761, 556 A.2d 1135 (1989).

Wherefore there is no genuine dispute to the fact that Justin Holder has Legal Title Recorded with the Clerk to all land as described as “parcel 3” in Complaint at paragraph 3, and the Plaintiff has not and can not provide any evidence of Plaintiff recorded title to “parcel 3” in Complaint of paragraph 3 of Complaint the Defendant request Partial Summary Judgement of the fact Justin Holder is the Recorded Title owner of “parcel 3”, and it be further Ordered, As a Matter of Law Plaintiff is unable to bring forward sufficient evidence to prove the strength of his title and because there is no genuine dispute to the facts set forth in this Motion; the Defendant is entitled to Partial Summary Judgment that the Defendant, Justin Holder is the Recorded Title owner of “parcel 3” as described and plead at paragraph 3 of Plaintiff Complaint, be decided in favor of Defendant Justin Holder.

REQUEST FOR A HEARING

Honorable Clerk,

This Defendant does request a hearing on the Motion, and humble makes request to the Honorable Court for same.

Justin Holder, Pro Se

Respectfully submitted,



Justin Holder, Pro Se
Jholder2004@gmail.com
Tel. 240-356-2008

Defendant

Certificate of Service

I hereby certify that on this 14th day of June, 2021, the foregoing paper filed via MDEC and thus served electronically upon all registered parties, including:

Justin Holder
Matthew Ruble, Esq.
Robert L. Kline, III, Esq.
Roland David Pembroke, Esq.



Justin Holder, Pro Se

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY,
MARYLAND

JUSTIN HOLDER

*

*

*

Defendant

*

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v.

*

CASE NO.: C-20-CV-20-000371

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Joining case

Jeffrey Young

—

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Plaintiff

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CASE NO.: C-20-CV-20-000430

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Motion for RULE 2-211. REQUIRED JOINDER OF
PARTIES

Paragraph 3 to 6 from Plaintiff Complaint

3. The real property in question is located in Washington County, Maryland, and is more particularly shown and described as Parcels 2 and 3 on the Plat entitled "Property Line Survey for Harry Wickline" dated June 15, 1988, and recorded among the Plat Records for Washington County, Maryland, at Plat Record 2499.
4. This action is brought pursuant to §5-103 of the Annotated Code of Maryland (Court of Judicial Proceedings Article) and §14-108 of the Annotated Code of Maryland (Real Property Article).
5. The purpose of the Declaratory Judgment Act as stated in Courts and Judicial Proceedings Article Section 3-402, is to settle and afford relief from uncertainty with respect to rights, status, and other legal relations. The statute is to be liberally construed and administered (Courts and Judicial Proceedings, Section 3-402).
6. The Courts and Judicial Proceedings Article Section 3-406, provides that any person interested under a deed may request the court to determine any question of construction or validity arising under the instrument and may obtain a Declaration of rights, status, or other legal relations under it (Courts and Judicial Proceedings, Section 3-406).

Motion for RULE 2-211. REQUIRED JOINDER OF PARTIES

Now Comes Justin Holder, Pro Se and humbly requests the Honorable Court to order Joinder of Circuit Court Case C-20-CV-20-000430, Benjamin Estes v. Justin Holder, et al. Complete relief cannot be accorded among those already parties and disposition of the action may impair or impede the person's ability to protect a claimed interest relating to the subject of the action or may leave persons already parties subject to a substantial risk of incurring multiple or inconsistent obligations by reason of the person's claimed interest. And other appropriate relief and for the reasons stated as follows:

INTRODUCTION

Plaintiff has sued the Defendants in a three-count complaint for injunctive relief under Real Property Article 14-108, Declaratory Judgement and damages alleging Trespass. Because certain material facts stated herein are not disputed, and because the straightforward application of the law to those facts compels but a single result, the expeditious resolution of these issues will significantly narrow the totality of issues required to be tried to verdict in this matter. The Joinder of Parties for the reasons stated herein comports with the justice, the applicable legal standards, and serves the ever-increasingly important principles of judicial economy. It would be unfair and over burdensome on Defendant to Defend two suits of the same facts.

Undisputed Facts

1. That Jeffrey Young, Benjamin Estes, Justin Holder, Uncle Eddie's brokedown palace LLC and Deena Holder are neighbors and share boundary lines.
2. That the same surveyor has surveyed the properties of 4/5 of the parties named in 1.
3. That Plaintiff Benjamin Estes owns real property abutting Plaintiff Jeffrey Young, and said property is benefited by a record title Right of Way, over and through the Lands of Plaintiff Jeffrey Young. More particularly described in Liber 434 Folio 776 et seq. in Washington County Land Records.
4. That Defendant's Deena Holder and Uncle Eddies Brokedown palace LLC own Real Property that is Benefited by a record title Right of Way over and through lands claimed by Defendant Justin Holder and Plaintiff Jeffrey Young.

5. That this Defendant has been served Interrogatories and answers to Interrogatories and the witness list are remarkably similar and in some cases identical.
6. That Benjamin Estes in deposition under Oath on April 30th, 2021 was unable to provide a clear answer as to his possession and our record title metes and bounds in the area in which he abuts Plaintiff Jeffrey Young's property and or possession lines.
7. That Benjamin Estes in deposition under Oath on April 30th, 2021 stated the common factor in both lawsuits C-20-CV-20-000430/371 as Justin Holder.
8. That on July 30th or 31st, 2021 Tracy Clabaugh, ESQ. and admitted title and easement expert testified unambiguously the Right of Way benefiting Deena Holder and Uncle Eddie's brokedown palace LLC was of record, a valid instrument, and has not been extinguished by express instrument.
9. That Justin Holder's Deed located at Liber 6414 Folio 219 et seq. in Washington County Land Records unambiguously states the lands contained therein are subject to the "wagon road Right of way" as described in the deeds of Defendant's Deena Holder and Uncle Eddies brokedown palace LLC, Liber 6468 Folio 345et seq. and Liber 6485 Folio 244 et seq. in Washington County Land Records.
10. That the Metes and Bounds description of "wagon road right of way" as described by deed in 1872 Liber wmckk6 Folio 363 of the Washington County Land Records (Master Parcel for Deena Holder and Uncle Eddie) from Aaron Cost and Melinda Cost states the road follows the Cost (Deena Holder and Uncle Eddie's predecessor)/ Keedy (referring to J.H. Keedy a Plaintiff Jeffrey Young predecessor) division line.
11. That the Monument (stone) called for at the beginning of Plaintiff Jeffrey Young predecessor Deed at Liber 434 Folio 776 et seq. in Washington County Land Records is the same monument used in 1832 to locate the boundary of the COST/KEEDY division line described in 'wagon road right of way", and the first monument used to describe lands of Justin Holder's land at Liber 6414 Folio 219 et seq. in Washington County Land Records.
12. That the easement benefiting lands of Plaintiff Benjamin Estes recorded after the description of lands of Harry Wickline (Predecessor to Plaintiff Jeffrey Young) on Deed at Liber 434 Folio 776 et seq. in Washington County Land Records, does not contain a precise metes and bounds description.
13. That the Monument that is the beginning of the description of Real Property on Defendant Uncle Eddies brokedown palace LLC's deed has been located by Professional Land Surveyor George Nagel, and begins a shared boundary with Benjamin Estes.
14. That Professional Land surveyor George Nagel has properly located the Monument that is the First call on the Plaintiff Jeffrey Young Predecessor and Defendant Justin Holder deeds, and made plat of same and location of access easement. Deena Holder has recorded access easement in Washington County Land Records at Liber 6485 Folio 244 et seq. 3

15. That in Washington County Land Record located at Liber N. N. Folio 520 is deed dated 1832 Granted by David Hess to Samual Cost(Aaron's father) the monument described in paragraph 14 is the beginning of an 8 perch line and the monument described in paragraph 13 is at the end of said line of deed N. N. 520.

LEGAL STANDARD - Rule 2 -211

(a) Persons to Be Joined. Except as otherwise provided by law, a person who is subject to service of process shall be joined as a party in the action if in the person's absence

(1) complete relief cannot be accorded among those already parties, or

(2) disposition of the action may impair or impede the person's ability to protect a claimed interest relating to the subject of the action or may leave persons already parties subject to a substantial risk of incurring multiple or inconsistent obligations by reason of the person's claimed interest.

The court shall order that the person be made a party if not joined as required by this section. If the person should join as a plaintiff but refuses to do so, the person shall be made either a defendant or, in a proper case, an involuntary plaintiff.

(b) Reasons for Nonjoinder. A pleading asserting a claim for relief shall state the name, if known to the pleader, of a person meeting the criteria of (1) or (2) of section (a) of this Rule who is not joined and the reason the person is not joined.

(c) Effect of Inability to Join. If a person meeting the criteria of (1) or (2) of section (a) of this Rule cannot be made a party, the court shall determine whether the action should proceed among the parties before it or whether the action should be dismissed. Factors to be considered by the court include: to what extent a judgment rendered in the person's absence might be prejudicial to that person or those already parties; to what extent the prejudice can be lessened or avoided by protective provisions in the judgment or other measures; whether a judgment rendered in the person's absence will be adequate; and finally, whether the plaintiff will have an adequate remedy if the action is dismissed for nonjoinder.

(d) Exception. This Rule is subject to the provisions of Rule 2-231.

Legal Standard - Declaratory Judgment

Courts and Judicial Proceedings, Title 3 - Courts of General Jurisdiction -- Jurisdiction/special Causes of Action, Subtitle 4 - Declaratory Judgment

§ 3-405. Parties; role of Attorney General

(a) (1) If declaratory relief is sought, a person who has or claims any interest which would be affected by the declaration, shall be made a party.

(2) Except in a class action, the declaration may not prejudice the rights of any person not a party to the proceeding.

(b) In any proceeding which involves the validity of a municipal or county ordinance or franchise, the municipality or county shall be made a party and is entitled to be heard.

(c) If the statute, municipal or county ordinance, or franchise is alleged to be unconstitutional, the Attorney General need not be made a party but, immediately after suit has been filed, shall be served with a copy of the proceedings by certified mail. He is entitled to be heard, submit his views in writing within a time deemed reasonable by the court, or seek intervention pursuant to the Maryland Rules.

LEGAL STANDARD - Joinder of Parties

1. Both Plaintiff's Complaints assert an action for equitable and injunctive relief under Real Property Article, § 14-108 and 14-601 et seq., which provides:

(a) Any person in actual peaceable possession of property, or, if the property is vacant and unoccupied, in constructive and peaceable possession of it, either under color of title or claim of right by reason of the person or the person's predecessor's adverse possession for the statutory period, when the person's title to the property is denied or disputed, or when any other person claims, of record or otherwise to own the property, or any part of it, or to hold any lien encumbrance on it, regardless of whether or not the hostile outstanding claim is being actively asserted, and if an action at law or proceeding in equity is not pending to enforce or test the validity of the title, lien, encumbrance, or other adverse claim, the person may maintain a suit in accordance with Subtitle 6 of this title in the circuit court for the county where the property or any part of the property is located to quiet or remove any cloud from the title, or determine any adverse claim.

(b) The proceeding shall be deemed in rem or quasi in rem so long as the only relief sought is a decree that the plaintiff has absolute ownership and the right of disposition of the property, and an injunction against the assertion by the person named as the party defendant, of the person's claim by any action at law or otherwise. Any person who appears of record, or claims to have a hostile outstanding right, shall be made a defendant in the proceedings.

2. The Court of Special Appeals rested its holding on both aspects of Md.Rule 2-211(a)(2) when it said:

"Disposition of the action, in the absence of [other lot owners in the district], will impede or impair their ability to protect a claimed interest. Further, public officials charged with implementing the [O]rdinance may incur multiple or inconsistent obligations absent joinder of necessary parties in this suit. Inclusion of persons owning property within the scope of the [O]rdinance is, therefore, mandatory."

79 Md. App. at 421, 557 A.2d at 262.

3. The primary purposes of the joinder requirement of § 3-405(a) are "to assure that a person's rights are not adjudicated unless that person has had his `day in court'" and to prevent "multiplicity of litigation by assuring a determination of the entire controversy in a single proceeding." *Bender*, 290 Md. at 351, 430 A.2d 66. If these objectives are met — especially if the non-joined parties are bound by the decree — see *Williams v. Moore*, 215 Md. 181, 185-86, 137 A.2d 193 (1957)

4. As a general canon of boundary law, it is well-settled that a call to an adjoining boundary takes precedence over a metes and bounds description in the same instrument. *Wood*, supra, 185 Md. at 60-61, 42 A.2d 919; *Hill v. McConnell*, 106 Md. 574, 578-79, 68 A. 199 (1907).

5. "Possession by the putative owner continues to be a distinguishing feature of an action to quiet title. In 1955, the Legislature enacted Md.Code (1951, 1955 Repl.Vol.), Art. 16 § 128, the predecessor to the current quiet title provision, now found in R.P. § 14-108. See 1955 Md. Laws, Chap. 376. Real Property § 14-108 requires a claimant to prove "actual peaceable possession of property" or, in the case of wild lands, "constructive and peaceable possession of it." R.P. § 14-108(a). Ejectment actions involving tenant-landlord disputes and remedies for unlawful possession of the premises after the delivery of a deed were placed in the original jurisdiction of the district court. See R.P. § 8-402 through § 8-402.2; R.P. § 14-109. In all other cases, "a person who is not in possession of property and claims title and right to possession" may bring an action for ejectment in the circuit court, pursuant to R.P. § 14-108.1. Nevertheless, in *Thomas v. Hardisty*, supra, 217 Md. at 530, 143 A.2d 618, the Court of Appeals made clear that the quiet title statute did not "derogate or in any way conflict[] with" the "firmly established" jurisdictional divide between quiet title and ejectment. See *Romney v. Steinem*, 228 Md. 605, 608, 180 A.2d 873 (1962); *Cherry v. Siegert*, 215 Md. 81, 85, 136 A.2d 754 (1957) (stating that the 1955 statute was "merely declaratory of the law as it existed prior to June 1, 1955")."
(Emphasis added).

6. The purpose of this rule is to provide "for the compulsory joinder of necessary parties so that the case can proceed efficiently with respect to all persons having a cognizable interest in the matter and, at the end, the court can grant complete relief." *Caretti, Inc. v. Colonnade Ltd. Partnership*, 104 Md.App. 131, 142, 655 A.2d 64 (1995), cert. denied, 339 Md. 641, 664 A.2d 885 (1995).

6. Thus, the Plaintiff's action for relief under RP §14-108, 14-601 et seq. and Declaratory Judgment is an action at law for equitable relief.

7. That all parties would be served by the Judicial Economy of one trial given the witness list, lands, and experts are all similar if not identical.

Argument - Joinder of Parties

That Plaintiff Jeffrey Young has requested complete adjudication and relief from uncertainty, and to question the construction or validity arising under the instrument and may obtain a Declaration of rights in paragraph 5 and 6 of complaint.

5. The purpose of the Declaratory Judgment Act as stated in Courts and Judicial Proceedings Article Section 3-402, is to settle and afford relief from uncertainty with respect to rights, status, and other legal relations. The statute is to be liberally construed and administered (Courts and Judicial Proceedings, Section 3-402).

6. The Courts and Judicial Proceedings Article Section 3-406, provides that any person interested under a deed may request the court to determine any question of construction or validity arising under the instrument and may obtain a Declaration of rights, status, or other legal relations under it (Courts and Judicial Proceedings, Section 3-406).

That the current Virus outbreak has put undue burden on the court's schedule, and expediency is of great benefit to the public justice.

That Defendant Justin Holder is a humble man of little finance, and is appearing before the honorable court in proper person.

That it would be unfair and prejudicial for the Defendant to defend 2 suits of the same action and circumstance.

That additional undiscovered parties may have rights, and despite Plaintiff Jeffrey Young's Advertisement to the Universe, will not be party and later collaterally estopped.

Wherefore:

Wherefore the Defendant humbly requests Compulsory Joinder of Circuit Court Case C-20-CV-20-000430, Benjamin Estes v. Justin Holder, et al., and Joinder of Circuit Court Case C-20-CV-20-000371, Jeffrey Young v. Justin Holder, et al. in the interest of Judicial Economy.

Verification**CERTIFICATE REGARDING RESTRICTED INFORMATION**

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the Undisputed Facts section, paragraph's 1 to 12, under the "Undisputed Facts" headings are true and correct.


AND

Justin K. Holder, Pro Se
308 W. Chapline St.
Sharpsburg, MD 21782

(240) 356 - 2008

I HEREBY CERTIFY that this document does not contain any restricted information.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 1st day of May 2021, a copy of the foregoing Motion for Partial Summary Judgment was served via the MDEC system on Brendan M. Callahan, ESQ. Attorney for Plaintiff;

Attorney for Plaintiff, via MDEC Mark W. Schweitzer, Aaron D. Neal, and
McNamee, Hosea, Jernigan, Kim, Greenan & Lynch, P.A. via MDEC on
Aaron Neal, as McNamee, Hosea, Jernigan, Kim, Greenan & Lynch,
P.A. writ large

Matthew Ruble via MDEC Attorney for Co-Defendant

Roland David Pembroke Attorney for Plaintiff Jeffrey Young

A handwritten signature in black ink, appearing to read "Justin K. Holder".

Justin Holder, Pro Se

JEFFREY YOUNG
PLAINTIFF *

vs.

JUSTIN HOLDER
DEFENDANT *
*

CASE NO. C-21-CV-20-000371

REPLY TO OPPOSITION TO MOTION FOR RULE 2-211 REQUIRED JOINDER OF PARTIES

COMES NOW, Defendant, Justin Holder, in proper person and files this Reply to Opposition to Motion for Rule 2-211 Required Joinder of Parties, and states as grounds therefore as follows:

That Plaintiff denies the allegation in Paragraph 1 of said motion that Jeffrey Young and Benjamin Estes share boundary lines.

Reply: A railroad is a right of way and as such the fee is retained by the owner's and the Right of way passes over and through said lands. That by virtue of abutting a right of way the owners Estes and young do adjoin, and all adjoining property owner must be joined to the action under MD RP Article 14-601 et seq.

2. That Plaintiff denies the allegation in Paragraph 3 of said motion that "Benjamin Estes owns real property abutting (land) of Plaintiff Jeffrey Young. "The lands owned/claimed by Mr. Estes and Mr. Young do not share any common boundaries.

Reply: A railroad is a right of way and as such the fee is retained by the owner's and the Right of way passes over and through said lands. That by virtue of abutting a right of way the owners Estes and young do adjoin, and all adjoining property owner must be joined to the action under MD RP Article 14-601 et seq.

3. That Plaintiff denies the allegations contained in Paragraph 4 of said motion. Defendant Justin Holder owns no lands in Keedysville, Maryland.

Reply: That deed located at Liber 6414 Folio 219 et seq. of the Washington County Land Records is record title to land located in tax district 19, Keedysville, Md and owned by Defendant Justin Holder.

4. That the alleged Wagon Road Right of Way is not alleged to cross the land owned by Benjamin Estes.

5. That allegations contained in Defendant's Motion "Undisputed Facts" (paragraphs 5-15) are in fact disputed by the Plaintiff as will be presented in further proceedings in this matter.

Reply: The Opposition to Motion would be the most appropriate document in which to dispute the facts, and really the only relevant document to dispute facts as they relate to the Very Motion Plaintiff Opposes.

6. That the suit filed by Benjamin Estes (Benjamin Estes v Justin Holder, et.al., Case No. C-21-CV-20-000430) involves claims of a) Trespass to Land; b) claim pursuant to Maryland Natural Resources Article §5-409; c) Private nuisance; d) Aiding and Abetting Transfer to Land; and e) Quiet Title.

7. That pursuant to the deposition of Mr. Estes, taken on April 30, 2021, Mr. Estes does not claim any right, title or interest in any land owned or claimed by Jeffrey Young.

Reply: A railroad is a right of way and as such the fee is retained by the owner's and the Right of way passes over and through said lands. That by virtue of abutting a right of way the owners Estes and young do adjoin, and all adjoining property owner must be joined to the action under MD RP Article 14-601 et seq.

That Plaintiff, Jeffrey Young, does not claim any right, title or interest in any land owned by Benjamin Estes.

Reply: A railroad is a right of way and as such the fee is retained by the owner's and the Right of way passes over and through said lands. That by virtue of abutting a right of way the owners Estes and young do adjoin, and all adjoining property owner must be joined to the action under MD RP Article 14-601 et seq.

8. That the land owned or claimed by Mr. Estes and Jeffrey Young is separate and distinct from each other.

Reply: A railroad is a right of way and as such the fee is retained by the owner's and the Right of way passes over and through said lands. That by virtue of abutting a right of way the owners Estes and young do adjoin, and all adjoining property owner must be joined to the action under MD RP Article 14-601 et seq.

9. That pursuant to statute, public notice was given by Plaintiff, Jeffrey Young to all unknown persons, heirs, devisees, legatees, assigns...etc. of his suit (Case No. C-21-CV- 20-000371) for Quiet Title. Other than the named Defendants Justin and Deena Holder, only Uncle Eddies Brokedown Palace, LLC joined the suit as an additional party.

10. That Plaintiff Jeffrey Young's suit is an action for Quiet Title concerning his Property described as Parcels 2 and 3, Washington County Plat No. 2499, Tax Map Grid 19, Parcel 180.

11. That Defendant herein is not seeking a joinder of parties but the consolidation of two separate and distinct causes of action involving two separate Plaintiffs and two separate parcels of property which do not share a common property boundary line.

Reply: A railroad is a right of way and as such the fee is retained by the owner's and the Right of way passes over and through said lands. That by virtue of abutting a right of way the owners Estes and young do adjoin, and all adjoining property owner must be joined to the action under MD RP Article 14-601 et seq.

12. That neither consolidation of these cases nor joinder of these Plaintiffs is necessary nor appropriate.

Reply: That Joinder of the parties is not only appropriate for Judicial economy but required by Law under the Quiet title and Declaratory Judgment Statutes as stated in the Complaint.

WHEREFORE, Defendant, Justin Holder respectfully prays:

That the Court grant the Defendant's request for consolidation and or joinder of parties;

B. That the Court grant Defendant such other and necessary relief as the nature of his cause may require.

Respectfully submitted,



Justin Holder

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Reply to Opposition to Motion for Rule 2- 211 Required Joinder of

Parties was sent via email and served via MDEC to on this 12th day of May 2021:
Matthew Ruble, Esq.
Roland David Pembroke, Esq.
Robert Kline, Esq.

A handwritten signature in black ink, appearing to read "Justin R. Holder". The signature is fluid and cursive, with the first name "Justin" and the last name "Holder" being the most legible parts.

Justin Holder, Pro Se
(240) 356 – 2008
Jholder2004@gmail.com

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY MARYLAND

JUSTIN HOLDER

Defendant

v.

Benjamin Estes,
Jeffrey Young, et al.

Plaintiff(s)

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CASE NO.: C-21-CV-20-000371

And

CASE NO.: C-21-CV-20-000430/130

Bill Quia Timet

Now Comes Justin Holder, in proper person and does humbly make Petition to the Honorable Court to prey Bill Quia Timet. Petitioner Justin Holder offers bond of \$2500 and my word that my cause is that of Judicial Economy and Good Faith. I offer

Bond to the Honorable Clerk to pay cost as the clerk deems appropriate, in holding a hearing of my Bill Quia Timet at the Epicenter of all Matters

relevant to the Litigation in Circuit Court of property line disputes in Case(s) C-21-V-20-000371/130/430, Benjamin Estes/Jeffrey Young et al. v.

Justin Holder, et al.

That Petitioner's only request of the Honorable Court is to Decide the Law as Harsh at it may be, and Petitioner will have his equity as Harsh at that may be.

In Fear and Apprehension of**(Standing)**

Defendant is "Stakeholder" with no direct course of action to Defend his rights and is in fear of loosing 16 years of Liberty and the entirety of his Freehold Estate in Land he is Seisen, if the co Defendants do not vigilantly defend there estate or the Law is not upheld.

The Epicenter of this Matter is Defined in Petitioner's Deed Filed with the Honorable Clerk at Liber 6414 Folio 219 et seq. , as a Stone well placed in Law 2 Centuries prior which Stands Tall and true today, as it did in the year of 1832.

That Petitioner has made his claim Notoriously in Land Records to the Lands in which he is Seison, and preys this court relief from the Economic Injury being inflicted upon him self's and family by the Plaintiff(s). That Petitioner Justin Holder is in "actual possession" and does have exclusive dominion of part of his land, and is therefore in "constructive possession" of the entirety of land described in his Deed Title.

The Petitioner states in Good Faith and the interest of Judicial Economy and Expediency that there is but one Relevant Fact before this court, and the decision of that fact is not a difficult decision at all, as all the evidence the Honorable Court requires is available in the Grantor/Grantee Index, and Kindly provided in Supoena Duces Tecum served on Fox Associates Engineers. That Expert Testimony has been Provided by Expert Surveyor Frederic Frederick in Interpretation of said Deeds on April 27th, 2021.

Petitioner doth humbly request 5 minutes of the honorable courts time in presentation of a 3 minute video record of the April 27th, 2021 Deposition of Expert Frederic Frederick, and the courts review of the Indenture Located at Liber N. N. Folio 520 of the Washington county Land Records.

Petitioner preys the Honorable Courts relief in holding the presentation on the Lands Petitioner is Seison in. Such that the Honorable Court may Look upon the Lands and Monuments as the Honorable Court pleases.

That Deputy States Attorney Joseph Michael requested Defendant to file Petition with Chancellor in Equity before the State would dismiss Criminal Charges of Trespass on the very lands of this dispute. That Defendant need not Plead Equity, Defendant only needs to Plead in Law, and by means of Recorded Title to Lands in which he is Seisen, or co Defendants are Seison.

That Plaintiff Benjamin Estes has filed among other charges; criminal trespass charges against Justin Holder with a picture conspicuously placed in the charging documents, of Defendant Justin Holder standing waist deep in the Waters of the Little Antietam Creek. That Plaintiff Benjamin Estes has filed advertisement claiming Plaintiff as sole right to the waters and fee beneath the Little Antietam Creek in Tax District 19, Keedysville, MD. That in 1632 King Charles of England did bestow upon Cecielius Calvert, Lord of Baltimore the rights of his disciples to fish the waters and dry the fish upon their shores.

Plaintiff(s) has sued the Defendants in complaint for injunctive relief under Real Property Article 14-108, Declaratory Judgment and damages alleging Trespass. Because certain material facts stated herein are not disputed, and because the straightforward application of the law to those facts compels but a single result, the expeditious resolution of these issues will significantly narrow the totality of issues required to be tried to verdict in this matter.

Undisputed Facts

- That Jeffrey Young, Benjamin Estes, Justin Holder, Uncle Eddie's brokedown palace LLC and Deena Holder are neighbors and share boundary lines.
- That the same surveyor has surveyed the properties of 4/5 of the parties named in 1.
- That Plaintiff Benjamin Estes owns real property abutting Plaintiff Jeffrey Young, and said property is benefited by a record title Right of Way, over and through the Lands of Plaintiff Jeffrey Young. More particularly described in Liber 434 Folio 776 et seq. in Washington County Land Records.
- That Defendant's Deena Holder and Uncle Eddies Brokedown palace LLC own Real Property that is Benefited by a record title Right of Way over and through lands claimed by Defendant Justin Holder and Plaintiff Jeffrey Young.

- That this Defendant has been served Interrogatories and answers to Interrogatories and the witness list are remarkably similar and in some cases identical.
- That Benjamin Estes in deposition under Oath on April 30th, 2021 was unable to provide a clear answer as to his possession and our record title metes and bounds in the area in which he abuts Plaintiff Jeffrey Young's property and or possession lines.
- That Benjamin Estes in deposition under Oath on April 30th, 2021 stated the common factor in both lawsuits C-20-CV-20-000430/371 as Justin Holder.
- That on July 30th or 31st, 2021 Tracy Clabaugh, ESQ. and admitted title and easement expert testified unambiguously the Right of Way benefiting Deena Holder and Uncle Eddie's brokedown palace LLC was of record, a valid instrument, and has not been extinguished by express instrument.
- That Justin Holder's Deed located at Liber 6414 Folio 219 et seq. in Washington County Land Records unambiguously states the lands contained therein are subject to the "wagon road Right of way" as described in the deeds of Defendant's Deena Holder and Uncle Eddies brokedown palace LLC, Liber 6468 Folio 345et seq. and Liber 6485 Folio 244 et seq. in Washington County Land Records.
- That the Metes and Bounds description of "wagon road right of way" as described by deed in 1872 Liber wmckk6 Folio 363 of the Washington County Land Records (Master Parcel for Deena Holder and Uncle Eddie) from Aaron Cost and Melinda Cost states the road follows the Cost (Deena Holder and Uncle Eddie's predecessor)/ Keedy (referring to J.H. Keedy a Plaintiff Jeffrey Young predecessor) division line.
- That the Monument (Epicenter) called for at the beginning of Plaintiff Jeffrey Young predecessor Deed at

Liber 434 Folio 776 et seq. in Washington County Land Records is the same monument used in 1832 to locate the boundary of the COST/KEEDY division line described in 'wagon road right of way", and the first monument used to describe lands of Justin Holder's land at Liber 6414 Folio 219 et seq. in Washington County Land Records.

- That the easement benefiting lands of Plaintiff Benjamin Estes recorded after the description of lands of Harry Wickline (Predecessor to Plaintiff Jeffrey Young) on Deed at Liber 434 Folio 776 et seq. in Washington County Land Records, does not contain a precise metes and bounds description.
- That the Monument (Epicenter) that is the beginning of the description of Real Property on Defendant Uncle Eddies brokedown palace LLC's deed has been located by Professional Land Surveyor George Nagel, and begins a shared boundary with Benjamin Estes.
- That Professional Land surveyor George Nagel has properly located the Monument (Epicenter) that is the First call on the Plaintiff Jeffrey Young Predecessor and Defendant Justin Holder deeds, and made plat of same and location of access easement. Deena Holder has recorded access easement in Washington County Land Records at Liber 6485 Folio 244 et seq. 3
- That in Washington County Land Record located at Liber N. N. Folio 520 is deed dated 1832 Granted by David Hess to Samual Cost(Aaron's father) the monument described in paragraph 14 is the beginning of an 8 perch line and the monument described in paragraph 13 is at the end of said line of deed N. N. 520.

LEGAL STANDARD¹³⁹¹ - Bill Quia Timet

- "The principle upon which chancery acts in such cases is that the value of property in land lies in its marketable title and the right to its quiet possession, and **that sometimes justice requires that the owner should not have its worth materially depreciated by the chilling effect, for an indefinite time, of an invalid, although not actively asserted, claim, which, if enforceable, would cause him a loss; and so, he is entitled to have the questions affecting his rights forthwith determined by having the claim immediately established and enforced or his estate made secure against its operation. In this way bills quia timet anticipate and guard against future and contingent injuries and assure the estate of the owner.**" [Emphasis Added]

Cherry v. Siegert, 136 A. 2d 754 - Md: Court of Appeals 1957

The scope of relief at common law, under a bill quia timet 476*476 to quiet title or remove a cloud, has probably been somewhat enlarged by Code (1957), Art. 16, sec. 128. Cf. Shapiro v. County Comm., 219 Md. 298, 301. But, unlike the statutes of some states, our statute has not dispensed entirely with the necessity of showing possession, actual or constructive. See Thomas v. Hardisty, supra, and Cherry v. Siegert, 215 Md. 81, 85. That section authorizes a suit in equity to quiet title by a person "being in actual peaceable possession of lands * * * or, in the event said lands be vacant and unoccupied, in constructive and peaceable possession thereof, either under color of title, or under claim of right by reason of his or his predecessor's adverse possession for the statutory period * * *." **The bill in the instant case does not allege that the lands are vacant and unoccupied, nor does it allege any other facts tending to show that there is not an adequate remedy at law, which is sole ground of equity jurisdiction. In this respect the bill is clearly open to demurrer.** [Emphasis Added]

The appellees further contend that the bill is demurrable on the ground that copies of the various deeds, wills and agreements in the complainants' recited chain of title were not filed with the bill. Maryland Rule 170 b does not require that all documents referred to, but not as exhibits, be filed with a bill. (Rule 170 b 2 makes special provision for injunction and receiver cases.) **Under Rule 326, written documents upon which a cause of action is founded, in law or in equity, are required to be filed "upon written demand of the opposite party served upon him within the time allowed for pleading". We find nothing in the present rules to indicate that failure to file documents merely referred to in the complaint, and upon which general relief depends, would open a bill to demurrer.** It is a matter of proof, rather than of the sufficiency of the allegations. That seems to have been the effect of the holding in Warczynski v. Barnycz, 208 Md. 222, 226, although the point was termed "academic" after the trial of the case. **We see no reason, under the present rules, why a demurrer should lie to a bill which states a good cause of action, on this ground, despite intimations to the contrary** in Haldas v. Commissioners of Charlestown, 207 Md. 255, 261, Kahn v. Janowski, 191 Md. 279, 284, and Beachey v. Heiple, 477*477 130 Md. 683, 693. In all those cases it was held that failure to file documents referred to would not preclude general relief, or justify a dismissal of the bill. Where documents are referred to in a bill as exhibits, of course, Rule 170 b requires that copies be filed before process may issue. [Emphasis Added]

Barnes v. Webster, 154 A. 2d 918 - Md: Court of Appeals 1959

The relief sought by the appellee is essentially legal, and clearly available in ejectment. While title to real estate may sometimes be adjudicated in equity on a bill quia timet, this is not such a case because the complainant alleged she was not in possession. *Kelly v. Nice*, 141 Md. 472, 119 A. 333; *Schultz v. Kaplan*, supra; *Redwood Hotel v. Korbien*, 195 Md. 402, 73 A.2d 468. The case of *Smith v. Shiebeck*, 180 Md. 412, 24 A.2d 795, relied on by appellee, does not support her contention. It is distinguishable, for there irreparable injury from interference with a right of way, without opportunity for timely redress at law, was claimed. Here title to a piece of land is the only matter in issue, and no special circumstances for equitable consideration appear. Where the object of a proceeding is to obtain possession, the remedy is ejectment. **Equity entertains jurisdiction where, although the complainant fears vexatious litigation due to a cloud on his title, he nevertheless cannot sue in ejectment because he is already in possession. The ground of equity jurisdiction in such a case is that being in possession he is denied a remedy at law.** [Emphasis Added]

In the instant case complete relief could be given in the legal forum, and if the appellee should prevail in ejectment this would effectually terminate any cloud on her title which she fears from the recent recording by the appellants of the original agreement between the appellee and Haviland, and of the assignment of that agreement to them. If appellee wished additionally the incidental advantage of a specific declaration, either affirmative or negative in form, as to the status of the recorded documents, that would be available to her under Article 31A, Section 6, 1951 **Code in a proceeding for a declaratory judgment at law, but not by resort to equity.**

Glorius v. Watkins, 102 A. 2d 274 - Md: Court of Appeals 1954

Legal Standard - Declaratory Judgment

Courts and Judicial Proceedings, Title 3 - Courts of General Jurisdiction --
Jurisdiction/special Causes of Action, Subtitle 4
- Declaratory Judgment

§ 3-405. Parties; role of Attorney General

- (1) If declaratory relief is sought, a person who has or claims any interest which would be affected by the declaration, shall be made a party.
- (2) Except in a class action, the declaration may not prejudice the rights of any person not a party to the proceeding.
- In any proceeding which involves the validity of a municipal or county ordinance or franchise, the municipality or county shall be made a party and is entitled to be heard.
- If the statute, municipal or county ordinance, or franchise is alleged to be unconstitutional, the Attorney General need not be made a party but, immediately

after suit has been filed, shall be served with a copy of the proceedings by certified mail. He is entitled to be heard, submit his views in writing within a time deemed reasonable by the court, or seek intervention pursuant to the Maryland Rules.

The question before Judge Dwyer, therefore, was one of fact in resolving a boundary dispute. Indeed, the determination of the boundary line in this case (whether along the Existing Fence line as asserted by the Nowaks or some distance west of the Existing Fence as asserted by the Webbs) is a fact-intensive query based on testimonial and/or demonstrative evidence. 594*594 Even counsel for the Webbs stated at trial that he "recogniz[ed] that there are issues of fact here...." As the Nowaks pointed out, "[the] inquiry, by its very nature, must involve comparing the Wolf deed to conditions in the field—e.g., the location and condition of the [Existing Fence], the location of the Private road and County road, the location of other monuments ... [the] topography of the land ... and even the location of surveyors' pins...." **Accordingly, we would consider without deference to the lower court's decision regarding the legal interpretation of a deed only after the proper location of the disputed boundary line has been established by an adequate factual record.** See, e.g., *White v. Pines Community Improvement Ass'n, Inc.*, 403 Md. 13, 31, 939 A.2d 165, 175 (2008); *YIVO Inst. for Jewish Research v. Zaleski*, 386 Md. 654, 662-63, 874 A.2d 411, 415 (2005) (quoting *Nesbit v. Gov't Employees Ins. Co.*, 382 Md. 65, 72, 854 A.2d 879, 883 (2004)). [Emphasis Added]

Webb v. Nowak, 72 A. 3d 587 - Md: Court of Appeals 2013

"As a general principle, descriptions of quantity are 'considered inferior' to other forms of descriptions, including 10*10 'calls for courses and distances.'... 'Quantity is ordinarily not controlling, unless there are no calls for monuments or for courses and distances set out in the deed.' ...

"Moreover, a description of quantity is even less authoritative if it contains qualifying terms, such as 'more or less.'[[7]]... In *Brodsky v. Hull*, 196 Md. 509, 77 A.2d 156 (1950), the Court of Appeals stated:

'It is a firmly established rule in this State that where it appears by definite boundaries, or by words of qualification, such as "more or less," in a contract of sale that the statement of the quantity of land is mere estimation and description, and not of the essence of the contract, the buyer takes the risk of quantity, and is not entitled to an abatement of price on account of a

deficiency, in the absence of fraud.'

[Brodsky, 196 Md. at 514, 77 A.2d at 158.] ...

"Calls to monuments, both natural and artificial, are the most reliable means of determining the proper location of boundaries. [4 Herbert T.]Tiffany [& Basil Jones, Real Property] [] § 994 [(1975, Supp.2006)]. Moreover, '[t]he line of an adjacent tract, if known or established, may as well be a call in a deed as a natural object.' Dundalk Holding Co. v. Easter, 195 Md.[488,] 495[, 73 A.2d 877, 879 (1950),].... Indeed, a call to an adjoining boundary controls over most other methods of description....

"In our view, therefore, the latter description, which is based on calls to adjoining boundaries, is of greater reliability. The deed patently states that Parcel 146 is 64 feet along what is now Elm Street. That language is not ambiguous on its face, and therefore we must assume it expresses the intent of the parties to the deed. That intent can easily be applied to the present boundary dispute. The western boundary of Parcel 146, where it abuts Parcels 236, 292, and 152 is undisputed. Thus, the eastern boundary of Parcel 146, i.e., the boundary at issue, is 64 feet from the western boundary of Parcel 146." (Footnotes added.) (Some citations omitted.)

Union United v. Burton, No. 2744, slip op. at 17-23 (July 18, 2007).

More than a half-century ago, we reiterated the same principles in respect to matters of survey and boundary line disputes. We said in Dundalk Holding, *supra*, as follows:

"The issue is a narrow one, involving merely a problem of conflicting surveys. The issue is fundamentally one of fact and the established rules as to preference are simply guides to ascertain the intention of the parties. Calls for monuments, natural or artificial, generally prevail over courses and distances. The line of an adjacent tract, if known or established [or undisputed], may as well be a call in a deed as a natural object....

"Whatever doubts may exist as to the location of the 25 perch line in the Marx 11*11 deed, it seems clear that the alternate call to the southwest boundary of the Gulf Oil Corporation lot cannot be disregarded.... If the parties adopted that as a fixed point of reference it is immaterial whether it was correctly located by the City in the first instance."

Dundalk Holding 195 Md. at 494-95, 73 A.2d at 879.

We agree completely with Judge Kenney's statement of the applicable law and his assessment for the Court of Special Appeals of the correct boundary between Parcels 144 and 146.

Accordingly, we shall remand this case to the Circuit Court for Prince George's County, with directions to the Circuit Court to enter a declaratory judgment that the boundary line between Parcels 144 and 146, the boundary line at issue in this case, is situate 64 feet easterly of the undisputed western boundary line of Parcel 146, i.e., the boundary line between Parcel 146 and Parcels 236, 292, and 152.

Union United Methodist v. Burton, 948 A. 2d 1 - Md: Court of Appeals 2008

Argument - Declaratory Judgment of the Monument

That Plaintiff Jeffrey Young has requested complete adjudication and relief from uncertainty, and to question the construction or validity arising under the instrument and may obtain a Declaration of rights in paragraph 5 and 6 of complaint.

- The purpose of the Declaratory Judgment Act as stated in Courts and Judicial Proceedings Article Section 3-402, is to settle and afford relief from uncertainty with respect to rights, status, and other legal relations. The. statute is to be liberally construed and administered (Courts and Judicial Proceedings, Section 3-402).
- The Courts and Judicial Proceedings Article Section 3-406, provides that any person interested under a deed may request the court to determine any question of construction or validity arising under the instrument and may obtain a Declaration of rights, status, or other legal relations under it (Courts and Judicial Proceedings, Section 3-406).

That Defendant Justin Holder is a humble man of little finance, and is appearing before the Honorable Court in

proper person.

That upon Declaratory Judgment by the Honorable Court as to the legitimacy of the monument is of the utmost relevance to this matter, and all other matters may expediently move forward as prescribed in Law.

Wherefore:

Wherefore the Defendant humbly requests Declaratory Judgement that the Stone described in Deed held by the Honorable Clerk of the Court in the Washington County Land Records Liber 6414 Folio 219 et seq. as the Beginning Stone of Lands of Justin Holder is the same monument as described in title Deeds of the Plaintiff Jeffrey Young's predecessor title deeds located at Liber 434 Folio 776 et seq. of the Washington County Land Records.

Verification

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the Undisputed Facts section, 15 facts stated, under the "Undisputed Facts" headings are true and correct.



Justin Holder

AND

1397

I HEREBY CERTIFY that this document does not contain any restricted information.



Justin K. Holder, Pro Se
308 W. Chapline St.
Sharpsburg, MD 21782
(240) 356 - 2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of May 2021, a copy of the foregoing Bill Quia Timet was served via the MDEC system on:

Brendan M. Callahan, ESQ. Attorney for Plaintiff Benjamin Estes,

Aaron Neal via MDEC Attorney for Plaintiff Benjamin Estes,

Roland David Pembroke via MDEC Attorney for Plaintiff Jeffrey Young,

and

Matthew Ruble via MDEC Attorney for Deena Holder and Uncle Eddies brokedown palace LLC



Justin Holder, Pro Se

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG
PLAINTIFF

vs.

JUSTIN HOLDER, et al.
DEFENDANT

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CASE NO. C-21-CV-20-000371

**OPPOSITION TO AMENDED MOTION TO ALTER OR AMEND JUNE 9TH, 2021
ORDER DISMISSING BILL/MOTION/DECLARATORY JUDGMENT WITH
PREJUDICE**

COMES NOW Plaintiff, Jeffrey Young, by and through undersigned counsel, and files this Opposition to Amended Motion to Alter or Amend June 9th, 2021 Order Dismissing Bill/Motion/Declaratory Judgment with Prejudice and states therefore as follows:

1. That the Plaintiff Opposes the Amended Motion to Alter or Amend June 9th, 2021, Order Dismissing Bill/Motion/Declaratory Judgment with Prejudice.

2. That the Plaintiff adopts and incorporates his opposition to the original Motion to Alter and Amend filed by Defendant on June 9, 2021.

WHEREFORE, Plaintiff, Jeffrey Young, respectfully requests this Honorable Court:

A. Deny Defendant's Amended Motion to Alter or Amend June 9th, 2021 Order Dismissing Bill/Motion/Declaratory Judgment with Prejudice and the relief requested therein, with prejudice;

Respectfully submitted,



R. David Pembroke 8205010237
21 Summit Avenue
Hagerstown, MD 21740
(301) 791-5674
Attorney for Plaintiff
Rdpembroke1954@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Opposition to Amended Motion to Alter or Amend June 9th, 2021 Order Dismissing Bill/Motion/Declaratory Judgment with Prejudice was emailed this 9th day of July, 2021, to Justin Holder jholder2004@gmail.com, Robert Kline, III, Esquire at rkline@cookeandkline.com and Matthew Ruble, Esquire, at matt@mbrlaw.com.



R. David Pembroke

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JUSTIN KYLE HOLDER
308 West Chapline Street
Sharpsburg, MD 21782

Counter-Plaintiff(s)/Defendant

v.

JEFFREY YOUNG
13 Dogstreet Road
Keedysville, MD 21756

Counter-Defendant(s)/Plaintiff

CASE NO. C-21-CV-20-000371

**COUNTER-CLAIM - BILL OF COMPLAINT QUIA TIMET FOR DECLARATORY
JUDGEMENT of LAW and INJUNCTIVE RELIEF in EQUITY**

COMES NOW Defendant(s)/Counter-Plaintiff(s), Justin Kyle Holder, and sues the
Plaintiff/Counter-Defendant Jeffrey Young; and for reasons states:

1. This is a claim brought under the common law of Maryland to remove the cloud from the title of Counter-Plaintiff's Real Property located in Washington County, Maryland by *Quia Timet* action and Declaratory Judgement MD Cts & Jud Pro Code § 3-401.
2. The Common Law Bill *Quia Timet* is defined in *Black's Law Dictionary 4th Ed. Rev. 6-1971* at Page 209:

Bill *quia timet*. A bill invoking the aid of equity "because he fears," that is, because the complainant apprehends an injury to his property rights or interests, from the fault or neglect of another. *Bisp.Eq.* § 568; 2 *Story, Eq.Jur.* § 826.

Such bills are entertained to guard against possible or prospective injuries, and to preserve the means by which existing rights may be protected from future or contingent violations; differing from injunctions, in that the latter correct past and present or imminent and

certain injuries. *De Carli v. O'Brien*, 41 P.2d 411, 416, 150 Or. 35, 97 A.L.R. 693.

3. A Bill *Quia Timet* is a common law injunctive remedy to invoke the equity jurisdiction of the Court because he fears further harm. The action is traditional brought in a real property claim to prevent vexatious legislation when a title is clouded. The Jurisdiction in equity being the lack of adequate remedy in law, and the party being in being in possession of the land.

Requirements of MD Cts & Jud Pro Code § 3-401 (2019) et seq.

4. MD Cts & Jud Pro Code § 3-402 (2019) This subtitle is remedial. Its purpose is to settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations. It shall be liberally construed and administered.
5. MD Cts & Jud Pro Code § 3-403(b) “The enumeration in §§ 3-406, 3-407, 3-408, and 3-408.1 of this subtitle does not limit or restrict the exercise of the general powers conferred in subsection (a) of this section in any proceeding where declaratory relief is sought and in which a judgment or decree will terminate the controversy or remove an uncertainty.”
6. MD Cts & Jud Pro Code § 3-4099a) “Except as provided in subsection (d) of this section, a court may grant a declaratory judgment or decree in a civil case, if it will serve to terminate the uncertainty or controversy giving rise to the proceeding, and if:”
7. MD Cts & Jud Pro Code § 3-409(a)(1) “An actual controversy exists between contending parties; (2) Antagonistic claims are present between the parties involved which indicate imminent and inevitable litigation; or (3) A party asserts a legal relation,

status, right, or privilege and this is challenged or denied by an adversary party, who also has or asserts a concrete interest in it.”

8. MD Cts & Jud Pro Code § 3-411 “The declaration may be affirmative or negative in form and effect and has the force and effect of a final judgment or decree.”
9. MD Cts & Jud Pro Code § 3-412(a) “Further relief based on a declaratory judgment or decree may be granted if necessary or proper.”
10. MD Cts & Jud Pro Code § 3-412(b) “An application for further relief shall be by petition to a court having jurisdiction to grant the relief.
9. There exists an actual controversy of a justiciable issue between Counter-Plaintiff(s) and Counter-Defendant(s) within the jurisdiction of the Court; Involving the rights of the parties, boundaries and ownership of Real Property.
10. MD Cts & Jud Pro Code § 3-412(c) “If the application is sufficient, the court, on reasonable notice, shall require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted.”

Parties, Jurisdiction and Venue

10. “MD Cts & Jud Pro Code § 3-403(a) Except for the District Court, a court of records within its jurisdiction may declare rights, status, and other legal relations whether or not further relief is or could be claimed. An action or proceeding is not open to objection on the ground that a declaratory judgment or decree is prayed for.”
11. MD Cts & Jud Pro Code § 3-404 “The fact that a proceeding is brought under this subtitle does not affect a right to jury trial which otherwise may exist.”

12. MD Cts & Jud Pro Code § 3-405(a)(1) "If declaratory relief is sought, a person who has or claims any interest which would be affected by the declaration, shall be made a party."
13. MD Cts & Jud Pro Code § 3-406 "Any person interested under a deed, will, trust, land patent, written contract, or other writing constituting a contract, or whose rights, status, or other legal relations are affected by a statute, municipal ordinance, administrative rule or regulation, contract, or franchise, may have determined any question of construction or validity arising under the instrument, statute, ordinance, administrative rule or regulation, land patent, contract, or franchise and obtain a declaration of rights, status, or other legal relations under it."
14. MD Cts & Jud Pro Code § 3-409(e) "A court may order a speedy hearing of an action of a declaratory judgment and may advance it on the calendar."
- II. Counter-Plaintiff, Justin Kyle Holder, is an adult resident of Washington County, Maryland.
12. Counter-Plaintiff(s) are interested person(s) within the purview of Section 3-401 of the Courts and Judicial Proceedings Article of the Annotated Code of Maryland. (The Declaratory Judgment Act, Courts and Judicial Proceedings Section 3 Subtitle 4).
13. Counter-Defendant, Jeffrey Young is an adult resident of Washington County, Maryland.
14. This action concerns various disputes that have arisen in Washington County, Maryland, ("Property Dispute").
15. Jurisdiction and venue are appropriate in Washington County, Maryland.

16. This Court has jurisdiction over the Defendants pursuant to MD. CODE ANN. CTS & JUD. PROC. §16-102. This Court has jurisdiction over the cause of action pursuant to MD. CODE ANN. CTS & JUD. PROC. §4-401.
17. This Court is the proper venue pursuant to MD. CODE ANN. CTS & JUD. PROC. §6-201 because all residents reside in Washington County.
18. The Counter-Plaintiff's Real Property described by Surveyor Certificate prepared by Professional Land Surveyor George Nagel on deed dated August 10th, 2020 from Grantor Stonecrest Development, LLC and recorded at Liber 6370 folio 249 et seq. among the Land records of Washington County; a copy is attached hereto as Exhibit 1 - Deed from Stonecrest ("GCQC").
19. Two adverse "parties cannot be siesed at the same time of the same land under different titles and the law adjudges, therefore, the siesen of all that is not in the actual occupancy of the adverse party to him who has the better title" *Goen v Sansbury*, 149 A. 2d 17 - MD (1959).
20. Justin Holder is in actual possession of part of his property in Keedysville, Maryland; and therefore in constructive possession of all that he owns.

Facts Common to the Declaratory Judgement Requested

21. GCQC, beginning at folio 249 paragraph 5 and concluding at folio 250 paragraph 2 describes the purported chain of title to lands purported as being conveyed therein.
22. On GCQC folio 250 paragraph 1 states in part "...Parcel No. 3 of the the lands conveyed by the said deed recorded at Liber 772 folio 1069 was stated to be Parcel #3 'in the Deed from Vincent R. Groh, Personal Representative of the Estate of Charles Dudley Pry,

Deceased, dated April 14th, 1978, and of record at Liber 659 folio 580 (“L659f580”) among the Washington County Land Records...” see Exhibit 2 - L659f580.

23. The 3rd paragraph on folio 581 of L659f580 states “Parcel No. 3 ‘Improved Part’ part of a tract of land called “Hillsdale and the Vineyards” and part of a tract called ‘[F~~T~~]ells Foot Enlarged”, lying contiguous and embraced by the following metes and bounds; to wit:”
24. The 4th paragraph on folio 581, which continues onto folio 582, purports to describe the metes and bounds of Parcel No. 3 Tract No. 1 of L659f580; beginning at the 6th line in part states “...North 8 1/2 degrees East 32 1/2 perches to intersect the second line of a deed from David Hess to Samuel Cost for part of ‘[F~~T~~]ells Foot Enlarged’, and dated September 10th, 1832 and recorded in Liber N. N. Folio 520 (“NN520”) among aforesaid land records, then with said second line [Eastern Boundary], North 71 degrees East 30 perches, thence North 24 degrees East 29 1/2 perches to intersect the southwest side of the Washington County Railroad [Northern boundary]...and with the with the fourteenth, fifteenth and sixteenth lines of said deed [NN520 14th line] South 43 degrees West 6 perches to a stone...”
25. NN520 deed beginning at the 2nd line in part states “...North seventy one degrees East fifty eight perches; [3rd line] North twenty three degrees East twenty six perches to a stone standing at the end of the line of Felfoot Enlarged; [4th line] then North seventy seven degrees East eight perches to Little Antietam Creek then down said creek the nine following courses... [courses 5 through 13 being a total of 9 lines and generally describing creek]...[14th line] South 43 degrees West 6 perches...”. See Exhibit 3 - NN520.

26. Chapter 334 of the Acts of Assembly of 1864 at section 3 purported to bestow the limited right "...so far as shall be necessary for the purpose hereinafter mentioned, and no further..." in section 10 "...to construct a [Rail] road or roads from Hagerstown[, MD] to any point on the line of the Baltimore and Ohio Railroad east of Harpers Ferry[, WV], within the limits of Frederick or Washington counties, in the State of Maryland, not exceeding sixty-six feet wide,..." See Exhibit 4 - Chapter 334 of the Acts of 1864.
27. The Washington County Railroad Company in 1866 completed construction of the Washington County Railroad, which aforesaid railroad was abandoned by I.C.C docket AB 19 sub 20 by final decision on June 19th, 1978 ("Abandoned Railroad"), See Exhibit 5 - I.C.C. docket AB 19 sub 20.
28. By deed dated April 7th, 1866 Grantor Samuel Cost [NN520 Grantee] granted to the Washington County Railroad Company rights "...through the entirety of his said lands..." to operate the railroad which are recorded among the land records of Washington County, MD at Liber I. N. 18 folio 488 ("IN18f488"), See Exhibit 6 - IN18f488.
29. The abandoned railroad bisected the peninsula shaped NN520 through the entirety of the lands of Samuel Cost from approximately the stone at the end of the 3rd line of NN520 to the beginning of the 14th line of NN520.
30. Therefore the Abandoned Railroad was the Northern boundary of deed L659f580 Parcel No. 3 of the lands of Samuel Cost granted from David Hess on NN520; and the 2nd and 3rd lines of NN520 were the Eastern boundary of L659f580.

31. The portion of NN520 North of the Abandoned Railroad is now or formerly owned by Uncle Eddies brokedown palace, LLC a New Mexico Limited Liability Corporation (“Uncle Eddie”).
32. Uncle Eddie’s title to the Northern part of NN520 was confirmed by the personal representatives of the Estate of Mary Jane Hutzell by deed dated July 18th, 2020 and recorded among the Washington County land records at Liber 6468 folio 345 (“L6468f345”), See Exhibit 7 - L6468f345.
33. L6468f345 does purport to describe the chain of title to all lands contained therein as being part of the same lands described on NN520.
34. Defendant Jeffrey Young, in Complaint C-21-CV-20-000371 docketed September 16th, 2020 at ¶9 claims to be the sole owner of real property in Keedysville, MD by deed dated August 3rd, 1988 from Grantor Harry Wickline and recorded among the Land Records for Washington County, Maryland at Liber 885 folio 110. (Deed “L885f110”) See Exhibit 8 - Complaint 371 and Exhibit 9 - L885f110.
35. Defendant Jeffrey Young, in Complaint C-21-CV-20-000371 docketed September 16th, 2020 at ¶3 claims “The real property in question is located in Washington County, Maryland, and is more particularly shown and described as Parcels 2 and 3 on the Plat entitled "Property Line Survey for Harry Wickline" dated June 15,1988, and recorded among the Plat Records for Washington County, Maryland, at Plat Record 2499. “ (Plat “2499”)

36. On folio 111 of L885f110 the property is described as “BEING all of Parcels 1.2, and 3 of the lands conveyed to Roy G. Reeder and Mae M. Reeder, his wife, to Harry E. Wickline and Lempi L. Wickline, by deed dated January 7, 1966 and recorded among the Land Records for Washington County, Maryland at Liber 434, folio 776 (“L434f776”) see Exhibit 10 - L434f776; and being more particularly shown and described on a plat entitled ‘Property Line Survey for Harry Wickline’[2499], dated July 20, 1988 and recorded among Plat Records for the aforesaid County.”
37. Roy G. Reeder and Mae Reeder, his wife were Granted land by deed dated April 30th, 1945 by Grantor’s J. Albert Shank and Francis S. Harp, Attorneys in fact for Sarah E. Shank and Sarah E. Shank, widow and recorded among the Land Records of Washington County, Maryland at Liber 230 folio 139 (L230f139), see Exhibit 11 - L230f139.
38. L434f776 at folio 778 contains a plat of the land’s being conveyed by aforesaid deed; which in the Northwest corner of aforesaid plat purports to begin from a planted stone at the beginning of the 12th line of L230f139.
39. L230f139 states “reserving and excepting the rights reserved and excepted in the deed to Jacob H. Keedy from Nicholas Stine and wife, dated April 1st 1861 recorded in Liber I. N. No. 17 Folio 538 (“IN17f538”), one of the Land Records of said Washington County; also excepting and reserving that part of the above described tract contained 1 1/4 acres and 18 perches, more or less, conveyed by Jacob M. Hoover and wife, to S. Hermon Clopper, by deed dated February 14th, 1896, recorded in Liber No. 104 Folio 541, one of the Land Records of said Washington County...” See Exhibit 12 - IN17f538
40. GCQC includes a survey certificate on folio 253 prepared under the duty and care of Professional Land surveyor George Nagel (“Mr. Nagel”).

41. GCQC at folio 253 describes land as “Beginning at a ‘Stone’ ‘found’, said stone being at the beginning of the 12th or South 24° West 27 1/2 perch line of Parcel No. 4 in a deed from J. Albert Shank and Frances Harp, Attorneys in fact for Sarah E. Shank, and Sarah E. Shank to Roy G. Reeder and Mae M. Reeder, dated April 30, 1945 and recorded in Liber 230 at folio 139 among the Land Records of Washington County, Maryland, thence with the 12th or South 24° West 27 1/2 perch line...”
42. L434f776 [predecessor to Jeffrey Young’s deed L885f110] describing land as “Being a part of Parcel No. 4 in a deed from J. Albert Shank et al. unto grantors herein dated April 30, 1945 and recorded in Liber No. 230, folio 139, one of the Land records of Washington County, Maryland, and beginning for the part herein conveyed at a planted ‘Stone’, said ‘Stone’ being at the beginning of the 12th (South 24 degrees West 27.5 perches) line of the aforementioned deed; and 1. Running thence with said 12th line South 24 degrees West 453.75....Parcel 3: The Grantors also grant and convey unto the Grantees all of their right, title and interest in and to the following described land; Beginning at the plated ‘Stone’ at the beginning of the 1st line of Parcel No. 1 and running (1) Thence along said 1st line South 24 degrees West 453.75 feet....And we, the said Roy G. Reeder and Mae M. Reeder, his wife, do hereby covenant except as to Parcels No. 2 and 3 that we will warrant generally...”
43. The 8th line of Parcel No. 4 L230folio139 and IN17f538 state “North 50 degrees West 73 perches to a stone planted on the West Bank of the aforesaid creek,
44. The 9th line of Parcel No. 4 L230folio139 and IN17f538 state “thence South 33 - 1/3 degrees West 3 perches to a stone” and the 6th line of NN520 states” North 31 degrees

East 9 perches, as does the 2nd line of L6468f345, located at paragraph 1 on folio 347 on said deed [Generally following the Little Antietam Creek]

45. The 7th line of NN520 and the 3rd line of L6468f345 both state” ...North 10.5 degrees East 11 perches...” [Generally following the Little Antietam Creek].
46. The 8th line of NN520 and the 4th line of L6468f345 both state”... North 19 degrees West 5.5 perches.”[Generally following the Little Antietam Creek].
47. The 10th line of Parcel No. 4 L230folio139 and IN17f538 state “South 22 1/2 degrees West 17 perches to a stone planted near the West end of a stone abutment”; the 5th line on NN520 states” North 22 degrees East 17 perches and the 1st line on L6468f345 states “beginning at a planted stone standing near and in a Northerly direction from the West end of what was formerly the Washington County Rail Road bridge across “Little antietam” where said stream passes through the lands formerly belonging to Jacob Keedy into the lands formerly belonging to Elias Snively and running thence down said Creek North 22 degrees East 17 perches...”
48. The 11th line of Parcel No. 4 L230folio139 and IN17f538 state “thence South 79 degrees West 7-9/10 perches to a stone” and the 4th line of NN520 states” then North seventy seven degrees East eight perches to Little Antietam Creek then down said creek the nine following courses...”[following 1st, 2nd, 3rd and 4th lines of L6468f345 land now or formerly Uncle Eddie and the Eastern boundary of the Northern section of NN520].
49. The 12th line of Parcel No. 4 L230folio139 and IN17f538; and the 1st line of L434f776 and GCQC state “South 24 degrees West 27 1/2 perches to a [marked hickory tree on In17f538/L230f139, iron pin in a hickory stump on L434f776 and the beginning of the 13th line of l230f139 on GCQC]”; the 3rd line on NN520 states “North twenty three

degrees East twenty six perches to a stone standing at the end of the line of Fellfoot Enlarged then” and the 8th line on L659f580 states “ thence North 24 degrees East 29 1/2 perches to intersect the southwest side of the Washington County Railroad”.

50. The 13th line of Parcel No. 4 L230folio139 and IN17f538 state” South 71 1/4 degrees West 31 - 7/10 perches to a stone in a L[ai]ne; the 2nd line of L434f776 states “thence following an established lane and running with the 13th (South 71 degrees 45 minutes West 31.7 perches) line of the aforementioned deed South 71 degrees 45 minutes West 523.05 feet to an iron pin near a farm gate” the 2nd line of NN520 states “North seventy one degrees East fifty eight perches” and the 7th line of L659f580 states” ...North 71 degrees East 30 perches”.
51. L434f776 was the first carve out of a portion of Parcel No. 4 on L230f139 and another portion was granted to Nicholas Diavatis by deed dated May 29th, 1967 from Roy G. Reeder and Mae Reeder recorded at Liber 456 folio 14 (“L456f14”) of the Land Records of Washington County, Maryland, See Exhibit 13- L456f14.
52. L456f14 purports to run with the lines of L434f776.
53. Plat 2499 was prepared under the duty and care of Professional Land Surveyor Frederic Frederick (“Mr. Frederick”) in the spring and summer of 1988; said plat is mentioned in L885f110.
54. The 6th line of L885f110 is “thence crossing said stream and continuing with the Southern marginal line of the Baltimore and Ohio Railroad [Abandoned Railroad].
55. The Northern boundary of L659/580, L434f776 and L885f110 are described as the Abandoned Railroad.

56. On folio 778 on L434f776 and plat 2499 the abandoned railroad is depicted as the northern boundary of the lands surveyed for Counter-Defendant Jeffrey Young.
57. On August 31st, 2021 under the duty and care of Mr. Nagel a survey for Uncle Eddie's lands on L6468f345 was drawn which depicts the southern boundary of L6468f345 as the Abandoned Railroad, see Exhibit 14 - Holder Boundary Survey ("Mr. Nagel's Survey").
58. Mr. Nagel's Survey depicts a "planted stone found" at the beginning of the line crossing the Abandoned Railroad at South 75 degrees 44 minutes 6 seconds West 129.61 feet into the Little Antietam Creek ("Mr. Nagel's 1st line"), the boundary than meandering down said creek.
59. Justin Holder has been told by Mr. Frederick and Mr. Nagel there is a marginal difference in bearings when measured by the Global Positioning system and a compass, the difference of magnetic north and true north ("True North").
60. Mr. Nagel's 1st line bearing 75degrees 44 minutes 6 seconds is measured at True North the 4th, line of NN520 bearing 77 degrees and the 11th lines of IN17f538 and Parcel No. 4 on L230f139 bearing 79 degrees; where measured with a compass presumably.
61. Mr. Nagel's 1st line is 129.61 feet long and a perch is known to contain 16.5 feet; therefore Mr. Nagel's 1st line is approximately 7.9 perches long, the 11th line on Parcel No. 4 on L230f139 and IN17f538 are 7.9 perches long and the 4th line of NN520 is purported to be 8 perches long.
62. Mr. Nagel has made Justin Holder aware that the Stone described as "found" on GCQC is the Stone depicted on Mr. Nagel's Survey at the beginning of Mr. Nagel's 1st line that crosses the abandoned Railroad, ("The Stone").

63. Counter-Plaintiff has shown what he alleges is “The Stone” to Counter-Defendant Jeffrey Young on March 24th, 2021 while Mr. Nagel was on site conducting survey work.
64. On March 16th, 2021 Professional Land Surveyor Frederic Frederick (“Mr. Frederick”) was deposed in the matter of Jeffrey Young v Justin Holder et al., case C-21-CV-20-000371 docketed September 16th, 2020 (“Mr. Frederick’s Deposition”).
65. Mr. Frederick testified in Mr. Frederick’s Deposition that “· BY MR. RUBLE: Q· ·So this exhibit is really just a page 3 Liber 434 Folio 778 of the deed to Wickline which has got the Mause [sic] 1965 survey and then the second page of the exhibit is the 1988 survey [Plat 2499]· These are the same lands, right, Mr. Frederick? A· ·I believe so.” *Mr. Frederick Deposition* 23:14 - 25:18 Exhibit 15 - Mr. Frederick Deposition.
66. Mr. Frederick testified in Mr. Frederick’s Deposition that “Q· ·Okay· So in comparing the two then, the 1966 deed description into the Wickline starts at a planted stone [“The Stone”] beginning of the 12th line of the 1945 deed to ·Reeder, which I believe is up here in the corner· I don't· know if you all can see my mouse or not. A· ·I see it. ·Q· ·And did you find that stone or did your folks find that stone? ·A· ·Can you scroll down to my survey so that I can --- Q· ·Sure. ·A· --- see it quickly?· And zoom in on it, please· (Whereupon, the witness reviewed the document as requested.) THE WITNESS· We did not find that stone because we say we set an iron pin there. “ *Mr. Frederick Deposition* 23:14 - 25:18 Exhibit 15 - Mr. Frederick Deposition.
67. Mr. Frederick testified in Mr. Frederick’s Deposition that “BY MR. RUBLE: ·Q· ·Okay· If you had found that stone, would you have shown that stone instead of setting a pin? ·A· ·If we could prove that it was the original stone. What do I mean by that?· There's a lot of stones occurring· in nature everywhere, so just because you find a stone doesn't

mean it is the stone recited in a deed. So you need to prove it by finding measurements that verify that it is that stone. Q. Okay. Was any of that done with regard to this planted stone that appeared in the 1965 survey that you all didn't find? Did you search for it and try to measure up where it would be? A. We did. Q. And couldn't find the stone? A. We did not. *Mr. Frederick Deposition 23:14 - 25:18 Exhibit 15 - Mr. Frederick Deposition.*

68. Mr. Frederick testified in Mr. Frederick's Deposition that "Q. Okay. So if another surveyor were to say here in 2021 that he can go find that stone, would he be mistaken or would you be mistaken? A. We could be mistaken, but we looked for it and we didn't find it. And, you know, some people set these things as they want to. So it wasn't there, to the best of our knowledge, that my survey crews did not find it." *Mr. Frederick Deposition 23:14 - 25:18 Exhibit 15 - Mr. Frederick Deposition.*
69. Mr. Frederick testified in Mr. Frederick's Deposition that "Q. Would I be correct to refer to that planted stone as a monument? A. If it's the original stone, yes." *Mr. Frederick Deposition 23:14 - 25:18 Exhibit 15 - Mr. Frederick Deposition.*
70. In 1988 when conducting field work for plat 2499 Mr. Frederick or his agents looked but did not find The Stone and in 2020 when conducting field work to prepare the Surveyor certificate appended to GCQC Mr. Nagel "found" The Stone and subsequently drew The Stone as the "planted stone found" at the beginning of Mr. Nagel's 1st line on Mr. Nagel's Survey for Uncle Eddie to describe L6468f345.
71. The 8th line of L885f110 is "thence running along the Eastern Boundary of lands now or formerly of Leonard L. Dorsey (Liber 659, folio 580) South 22 degrees 24 minutes 46 seconds West 462.16 feet to an iron pin set [by Mr. Frederick]."

72. The 9th line of L885f110 is "thence along the same [L659f580] South 69 degrees 46 minutes 39 seconds West 497.33 feet to a recovered iron pin.
73. "As a general canon of boundary law, it is well-settled that a call to an adjoining boundary takes precedence over a metes and bounds description in the same instrument." *Ski Roundtop, Inc. v. Wagerman*, 79 Md. App. 357, 367, 556 A.2d 1144 (1989).
74. Thus, to the extent that any conflict exists by reason of course and distance descriptions, in the absence of any evidence of contrary intention, the calls control. See *Delphrey v. Savage*, 227 Md. 373, 378, 177 A.2d 249 (1962) (calls to monuments given precedence over courses and distances); *Zawatsky Constr. Co. v. Feldman Dev. Corp.*, 203 Md. 182, 187, 100 A.2d 269 (1953); *Dundalk Holding Co. v. Easter*, 195 Md. 488, 495, 73 A.2d 877 (1950); *Wood v. Hildebrand*, 185 Md. 56, 60-61, 42 A.2d 919 (1945) ; *Conrad v. Williams*, 121 Md. 35, 40, 88 A. 36 (1913) ("[W]here the courses and distances in a grant do not agree with the call, the call will prevail and the courses and distances will be rejected."); *Stewart v. May*, 111 Md. 162, 174, 73 A. 460 (1909); *Houck v. Loveall*, 8 Md. 63, 69 (1855)
75. Thus Jeffrey Young was granted lands in Keedysville, Maryland at L885f110 that bind on the eastern boundary of lands now or formerly Leonard Dorsey in L659f580, which aforesaid lands of L659f580 describe the eastern boundary as the 2nd and 3rd lines of NN520.
76. The lands of Jefferey Young described in L885f110 and depicted on Plat 2499 by operation of law would bind on the 2nd and 3rd lines of NN520, the Eastern boundary of L659f580.
77. Professional Land surveyor Mr. Nagel has properly located the "Stone" Monument that is the First call on the Defendant, Jeffrey Young Predecessor Harry Wickline

L434f776 and Plaintiff Justin Holder GCQC deeds, and provided surveyor certificate/survey of same.

78. That in Washington County Land Record located at Liber N. N. Folio 520 is deed dated 1832 Granted by David Hess to Samual Cost where "The Stone" monument "found" by George Nagel at the end of the 3rd line of NN520; is the beginning of an 8 perch line that terminates at the beginning of lands now or formerly Uncle Eddies brokedown palace LLC described on L6468f345.
79. Plat 2499 from ¶3 Jeffrey Young Complaint 371 depicts the same lands as page 3/folio 778 of the Young predecessor Harry Wickline deed recorded at Liber 434 folio 776 of the Washington County Land Records.
80. The Hagerstown to Weaverton/Washington County Branch of the B and O Railroad Abandoned by I.C.C. Docket AB 19 Sub 20, which was acquired by the Washington County Rail Road Company as a *quasi*-public company incorporated by Chapter 334 of the Acts of Assembly of 1864, which said company was granted, by the said Act limited right "to construct a road or roads from Hagerstown to any point on the line of the Baltimore and Ohio Railroad east of Harper's Ferry ... not exceeding sixty-six feet wide," and "after the purchase and condemnation thereof ... may enter upon and use and excavate any land that may be wanted for the site of the said railroad.". The I.C.C. docket AB 19 sub 20 was final on June 19th, 1978 and served on June 22nd, 1978; Virginia Gunning, General Attorney for the railroad confirmed consummation of the abandonment by November 15th, 1978 letter confirming the tracks, ties, rails were

salvaged and bridges dropped. (The I.C.C. required a 180 day period for the Public to obtain rights prior to abandonment.)

Facts Common to the “Property Dispute”

81. The Plaintiff's Real Property described by Surveyor Certificate prepared by Professional Land Surveyor George Nagel and recorded at Liber 6370 folio 249 et seq. among the Land records of Washington County; a copy is attached hereto as Exhibit 1 - Deed from Stonecrest (“GCQC”).
82. On January 22nd, 2020 Benjamin Estes (Mr. Estes) filed action for Trespass in the Washington County District Court against Justin Holder (Mr. Holder) for civil Trespass.
83. On June 8th, 2020 State of Maryland to the benefit of the Department of Natural Resources (DNR) charged Justin Holder *inter alia* with driving in a non designated area/ illegal clearing/disturbing a rock on State Park Land in the Washington County District Court.
84. On September 16th, 2020 Jeffrey Young (Mr. Young) filed a complaint for Declaratory Judgment of a recorded instrument and to Quiet Title pleading adverse possession in the Washington County Circuit Court against Mr. Holder and Deena Holder (Mrs. Holder). Mr. Young advertised the Quiet Title under RP § 14-615 and Uncle Eddies brokedown palace LLC (Uncle Eddie) answered as an interested party.
85. On November 13th and 19th, 2020 Mr. Estes charged Mr. Holder in the District Court with criminal Trespass, Assault and Stalking.
86. On November 16th, 2020 Mr. Estes files an action of Trespass, Private Nuisance, treble damages and aiding and abetting of same in the Washington County Circuit Court against Mr. Holder and Mrs. Holder; Amending the Complaint on March 17th, 2021 to

include Quiet Title, and Ejectment in the Alternative, naming Uncle Eddie as a Defendant to the Complaint.

87. On May 6th, 2021 Plaintiff Benjamin Estes in case C-21-CV-20-000430 Amended his Complaint to include DNR as Defendant, and in addition Plead Adverse Possession of the Property in dispute.
88. The Properties in dispute were allegedly surveyed and platted by Professional Land Surveyor Frederic Frederick of Frederick Siebert and Associates (Mr. Frederick).
89. The Little Antietam Creek runs generally in a South to North direction through the lands claimed by Uncle Eddie, Mr. Estes and Mr. Young.
90. The now abandoned Washington County Branch of the B & O Railroad (Abandoned Railroad) runs generally East to West through the Lands claimed by Mr. Estes, Mr. Young, Uncle Eddie, Christine and Scott Morral, The Stonecrest Development in Keedysville, MD, Mrs. Holder and Mr. Holder.
91. Mr. Holder, Uncle Eddie, Mr. Estes, Mrs. Holder and DNR all may claim rights in the Abandoned Railroad.
92. Mrs. Holder and Uncle Eddie claim incorporeal rights of an easement known as the "Wagon Road" through the lands claimed by Mr. Young, Mr. Holder, DNR and Stonecrest.
93. Mr. Young's property is primarily East of the Wagon Road and South of the Abandoned Railroad with the Little Antietam Creek bisecting his property.
94. Uncle Eddie's Property is generally West of the Little Antietam Creek and North of the Abandoned Railroad.

95. Mr. Estes property is generally East of the Little Antietam Creek and North of the Abandoned Railroad. Mr. Estes contends to own the Western bank of the Little Antietam Creek and Creek bed, Uncle Eddie avers it owns the West Bank and Creek bed. Land depicted as “Deed Overlap Area” on Mr. Nagel’s Survey.
96. Mr. Estes appears to contend the Public has no rights to the waters of the Little Antietam Creek and Mr. Holder appears to contends the Public does have rights to the aforesaid waters.
97. The DNR contends to have rights to the waters above the Creek bed that the DNR contends to own; but does not represent other agencies whom may assert rights to regulate the waters such as Maryland Department of the Environment.
98. The Parties in which Uncle Eddie and Mrs. Holder contend the Wagon Road burdens generally own property North of the Abandoned Railroad and west of the Wagon Road in a subdivision built out in 2017 and completed in 2019 named (Stonecrest).
99. Mr. Holder has no record Stonecrest was surveyed by Mr. Frederick.
100. The Stonecrest Plat 8292 et seq. recorded in Washington County Land records has a note at the bottom the plat was done without a title search and there may be other encumbrances than depicted on the plat.
101. Mr. Holder contends that Mr. Frederick performed the Surveys of Mr. Estes, Mr. Young, and Uncle Eddie with no title research and did not locate the original stone monuments [The Stone]; setting new iron pins near fence lines.
102. Mr. Young and Mr. Estes have plead *inter alia* claim to right by adverse possession. Mr. Holder Contends the epicenter of the dispute is in the vicinity of a Stone Monument [The Stone].

103. Mr. Holder contends The Stone is generally located in the center of all the parties claimed properties at the Intersection of the Wagon Road, Abandoned Railroad and Little Antietam Creek.
104. Samual Cost of Washington County Maryland was predecessor in title to "Uncle Eddie" by virtue of land contained in deed N.N. Folio 520 of the Washington County Land Records (NN520).
105. The third line on the "NN520" description states "to a stone standing at the end of the line of Fellfoot Enlarged"
106. The fourth line on "NN520" description states "N77E 8p to Little Antietam Creek, then down said Creek the nine following courses"
107. The Resurvey of Fellfoot Enlarged ("RFFE") March 15th, 1792, Recorded in the Washington County Land Records at Liber G Folio 621 starting at the end of the eighth line from the bottom of Folio 623 states: "Beginning for Jacob Hesse's part of said land described on the plat by No. 6 at a stone marked I.H.[Not "The Stone"] on one side and M. S. on the other in a lane [Not "Wagon Road"] at the end of two hundred and seventy eight perches and thirteen feet on the forty sixth line of the whole tract and running thence with the outlines of the said whole tract until the fifty seventh line thereof of crosses little Antietam to the east side thereof then up and with the meanders of little Antietam the several following courses...[Next 4 Courses Generally run with the 5th through 8th lines of "NN520" except NN520 is on the west bank and "RFFE" is on the east bank and the lines gradually depart as they approach the confluence of the Big

Spring Branch located in the Northeast corner of “Plat 10955”] to intersect the 23rd line of the whole Tract than by and with the outlines of the said whole Tract to a Stone [Not “The Stone] marked I. H. Standing at the end of nine perches and eight links in the twenty seventh line thereof And then by a straight line to the beginning which straight line is the divisional line between the said Jacob Hess and Mich [Spuert]”, see Exhibit 16 - RFFE

Facts Common to the “Wagon Road”

- 108.** The DNR by deed recorded at Liber 1015 folio 796 of the Washington County Land Records (“CSXQC”) may claim some interest through the lands described as Abandoned Railroad Property.
- 109.** CSXQC includes a list of all property rights acquired by the B and O or Washington County Railroad that were the subject of I.C.C. Abandonment Docket AB 19 sub 20 on June 19th, 1978, served on June 22nd, 1978 and consummation claimed to be complete prior to midnight on November 15, 1978 in a letter to the I.C.C. from General Attorney Virginia Gunning on behalf of the Railroad; said CSXQC deed contained a list of deeds including IN18f488 from Samuel Cost.
- 110.** Christine and Scott Morral (the “Morrals”) own real property located at 138 Stonecrest Circle in Keedysville, Maryland (the “Morrall Property”).
- 111.** The Morrals purchased the Morral Property as the second constructed house in a then-new development called Stonecrest on November 29, 2016, by virtue of a deed recorded at Book 5393, page 479 among the land records of Washington County, Maryland (the “Morrall Deed”).

- ii2. The Morral Deed clearly and unambiguously states that the Morral Property was conveyed “SUBJECT TO AND TOGETHER WITH all of the covenants, easements, rights of way, and restrictions of record applicable thereto.”
- ii3. The Morral Property, per the Morral Deed, is described as “Lot 9 on a plat entitled ‘Final Plat, STONECREST’, and recorded at Plat Folio 8292 through 8295, Among the Plat Records of Washington County, Maryland.” Said Plat to be referred to hereafter as the “Stonecrest Plat” or “Plat 8292.”
- ii4. Along and through the rear portion of the Morral Property runs a 20 foot wide area designated and set aside by the Stonecrest Plat as subject to a Drainage & Storm Water Management Easement, and the Morral Property was explicitly restricted thereby such that “NO PERMANENT STRUCTURES, FENCES, TREES OR SHRUBS ARE PERMITTED WITHIN WATER, STORM DRAIN, DRAINAGE, STORM WATER MANAGEMENT, AND ACCESS EASEMENTS.”
- ii5. Morrals erected a fence over and through this drainage and storm water management easement area in early 2017 and onto the Abandoned Railroad Property.
- ii6. Morrals’ erection of a fence in that area is contrary to the restrictions on Stonecrest Plat.
- ii7. Morrals’ erection of a fence in that area is contrary to certain state, county and/or town laws, ordinances and/or regulations.
- ii8. Deena Holder (Mrs. Holder), owns real property situated, more or less, to the rear of the Morral Property at 25 and 28 Antietam Drive in Keedysville, Maryland (the “Holder Properties”).
- ii9. In May, 2020, Counter-Plaintiff, at the request of and with the permission of his wife (Mrs. Holder), undertook to maintain and repair a record title right of way belonging to

his wife that benefits the Holder Properties and runs, in part, behind and through the Morral Property, Abandoned Railroad Property, Town Property and Young Property.

- 120.** This right of way was created by deed dated March 22, 1872, and recorded among the Land Records of Washington County, Maryland at Liber WMcKK 6, folio 363 (the right of way created therein is hereafter called the “Right of Way”).
- 121.** Record title to the Right of Way has carried forward to the present day and continues to benefit the Holder Properties.
- 122.** The Right of Way burdens the Morral Property, which is part of the remaining lands of Aaron and Malinda Cost through which the Right of Way ran at the time of its creation in 1872.
- 123.** On May 20, 2020, Counter-Plaintiff visited the Morrals in person to invite them to an upcoming event being held at the Holder Properties, to discuss the Right of Way, and offered to email the deeds evidencing the Right of Way.
- 124.** Counter-Plaintiff provided the Morrals with his email address so they could correspond with him regarding the Right of Way.
- 125.** Despite Counter-Plaintiff’s offer, Morrals declined to inquire further of Counter-Plaintiff regarding the Right of Way.
- 126.** At the Temporary Peace Order Hearing on July 16, 2020, Counter-Plaintiff produced to the Morrals as evidence in the hearing a physical copy of a deed describing the Right of Way for the Holder Properties.
- 127.** Counter-Plaintiff further produced at the temporary hearing Plat 8292 and pointed out how Morrals’ own deed warned the Morrals’ that their property is subject to rights of way of record.

128. At the Final Peace Order Hearing, on July 31, 2020, Christine Morral testified that, as of that day, other than verifying that the Holders owned property behind the Morrals' property, she did not "undertake any efforts to ascertain whether [Holder] had a right of way through [the Morrals'] property."
129. Counter-Plaintiff produced at the Final Peace Order Trial an expert title attorney who produced a written title opinion and testified that the Right of Way was validly created as a record title easement that benefitted the Holder Properties and burdened the Morral Property and that good title to the Right of Way had been carried forward to Mrs. Holder.
130. The title expert attorney also testified that the Right of Way had not been extinguished by any instrument of record.
131. Counter-Plaintiff also produced at the Final Peace Order Trial, Mr. Nagel an expert surveyor who testified that the location of the Right of Way crosses the rear portion of the Morral Property.
132. At the close of the evidence in the Final Peace Order Trial, the District Court acknowledged that Defendants had produced no evidence that the Right of Way had been abandoned.
133. Counter-Plaintiff's attorney stated: "I ask the Court, what evidence is there that there was an abandonment?" The District Court responded: "Right. There's none."
Attorney: "Correct." Court: "Right."
134. Jeffery Young predecessor by deed IN17f538 was Jacob Keedy and Deena Holder and Uncle Eddie predecessor by deed NN520 was Samuel Cost.

135. The 2nd, 3rd, 4th, 5th and 6th lines of NN520 deed generally match the 9th, 10th, 11th, 12th, and 13th lines of the IN17f538 deed; thereby creating the division line as would have been in 1872 of Samuel Cost or heir and Jacob Keedy or heir (“Cost/Keedy” division line).
136. The “Wagon Road” that burdens Defendant Justin Holder’s title located at Liber 6370 Folio 249 purports to follow the Cost/Keedy division line.
137. The Washington County Railroad Company as required by Section 12 of Chapter 334 of the Acts of Assembly of 1864 ; as aforesaid Act expressly states “ways, either public or private, it shall be the duty of the said President and Directors of said company so to construct the said road across such established road or way, as not to impede the passage or transportation of persons or property along the same, or when it shall be necessary to pass through the lands of any individual it shall also be their duty to provide for such individuals proper wagon, ways across said road or roads, from one part of his lands to the other, and whenever any road or roads may hereafter be authorized to be made by the Legislature, when it may be necessary to cross said railroad, the company shall make or cause to be made a proper and convenient way for road to cross, the expenses of which shall be paid as the Legislature may direct.”.
138. The Department of Natural Resources has not claimed to have interest in The Stone that is the subject of this instant Declaratory Judgement action in Response to a Motion for Consolidation filed September 29th, 2021 in the Court of Special Appeals; Appeal No.’s 624 and 780 September Term.

139. Mr. Estes has not claimed to have interest in The Stone that is the subject of this instant Declaratory Judgement action in Response to a Motion for Consolidation filed September 30th, 2021 in the Court of Special Appeals; Appeal No.'s 624 and 780 September Term.
140. The Morral's have not claimed to have interest in "The Stone" in any statements under oath or when asked by email correspondence of their agents.
141. The Town of Keedysville in deposition claimed no interest in the outcome of any litigation over "The Stone" or "The Wagon Road".
142. Justin Holder has deposed the abutting owners of the Stonecrest subdivision along the Eastern Boundary of L659f580 and aforesaid abutting owners of the Stonecrest subdivision and has not found any other parties purporting to have a concrete interest in the Declaratory Judgement action in this Counter-Claim.

WHEREFORE, PLAINTIFF(s), respectfully request this Honorable Court to determine and adjudicate the rights of the Plaintiff(s) and all of the subject property owners with respect to "The Stone" described as "found" by Professional Land Surveyor George Nagel and described on Survey Certificate appended to deed recorded among the Land Records of Washington County, Maryland at Liber 6370 folio 249, and reviewing the title chains to aforesaid deed and Exhibits 1 through 16 filed with this claim; and

WHEREFORE Affirmatively declare that "The [Aforesaid] Stone" is the same beginning stone monument described on deed recorded at Liber 434 folio 776 of the Land Records of Washington County, Maryland and the stone monument depicted in the Northwest corner

of plat at folio 778 of aforesaid deed; and reviewing the title chains to aforesaid deed and Exhibits 1 through 16 filed with this claim; and

WHEREFORE after reviewing the deeds and chains of title for the subject parties, and ordering all such other and further relief as the nature of this cause requires.

WHEREFORE, PLAINTIFF(s), respectfully request this Honorable Court enter a final Injunction prohibiting Jeffrey Young and subject parties from pleading or stating that “The Stone” described as “found” by Professional Land Surveyor George Nagel and described on Survey Certificate appended to deed recorded among the Land Records of Washington County, Maryland at Liber 6370 folio 249 is NOT the same beginning stone monument described on deed recorded at Liber 434 folio 776 of the Land Records of Washington County, Maryland and the stone monument depicted in the Northwest corner of plat at folio 778 of aforesaid deed; and ordering all such other and further relief as the nature of this cause requires.

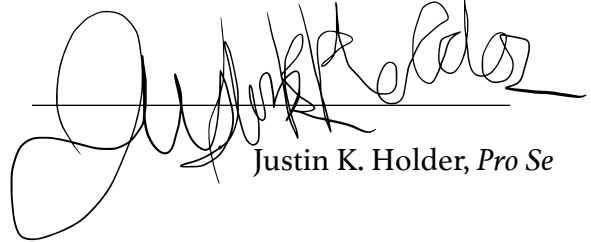
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Justin K. Holder', is written over a horizontal line.

Justin K. Holder, *Pro Se*
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

CERTIFICATE REGARDING RESTRICTED INFORMATION

I HEREBY CERTIFY that this document does not contain any restricted information.



Justin K. Holder, *Pro Se*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of November, 2021, a copy of the foregoing Counter-Claim - Bill of Complaint *Quia Timet* - for Declaratory Judgement of Law and Injunctive Relief in Equity was served via the MDEC system to :

Roland David Pembroke, Esq.,
 Brandy Peeples, Esq.,
 Robert Kline, Esq.,
 Peter Rogers, Esq.
 Talley Kovacs, Esq.
 Justin Holder, *Pro Se*.



Justin K. Holder, *Pro Se*

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG
PLAINTIFF

vs.

JUSTIN HOLDER, et al.
DEFENDANT

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CASE NO. C-21-CV-20-000371

**OPPOSITION TO MOTION TO ALTER OR AMEND JUNE 9TH, 2021 ORDER
DISMISSING BILL/MOTION/DECLARATORY JUDGMENT WITH PREJUDICE**

COMES NOW Plaintiff, Jeffrey Young, by and through undersigned counsel, and files this Opposition to Motion to Alter or Amend June 9th, 2021 Order Dismissing Bill/Motion/Declaratory Judgment with Prejudice and states therefore as follows:

1. That the Plaintiff Opposes the Motion to Alter or Amend June 9th, 2021, Order Dismissing Bill/Motion/Declaratory Judgment with Prejudice.

WHEREFORE, Plaintiff, Jeffrey Young, respectfully requests this Honorable Court:

A. Deny Defendant's Motion to Alter or Amend June 9th, 2021 Order Dismissing Bill/Motion/Declaratory Judgment with Prejudice and the relief requested therein, with prejudice;

B. Grant Plaintiff such other and further relief as his cause may require.

Respectfully submitted,



R. David Pembroke 8205010237
21 Summit Avenue
Hagerstown, MD 21740
(301) 791-5674
Attorney for Plaintiff
Rdpembroke1954@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Opposition to Motion to Alter or Amend June 9th, 2021 Order Dismissing Bill/Motion/Declaratory Judgment with Prejudice was emailed this 11th day of June, 2021, to Justin Holder jholder2004@gmail.com, Robert Kline, III, Esquire at rkline@cookeandkline.com and Matthew Ruble, Esquire, at matt@mbrlaw.com.



R. David Pembroke

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG
PLAINTIFF

vs.

JUSTIN HOLDER, et al.
DEFENDANT

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CASE NO. C-21-CV-20-000371

**MOTION TO STRIKE COUNTERCLAIM – BILL OF COMPLAINT QUIA TIMET
FOR DECLARATORY JUDGMENT OF LAW AND INJUNCTIVE RELIEF IN
EQUITY**

COMES NOW, Plaintiff, Jeffery Young, by and through undersigned counsel, pursuant to Maryland Rule 2-331, and moves to Strike Defendant Justin Holder's Counterclaim – Bill of Complaint Quia Timet for Declaratory Judgment of Law and Injunctive Relief in Equity and states as follows:

I. Maryland Rule 2-331

1. That this action was filed by Plaintiff on September 16, 2020, to Quiet Title of real property owned or claimed to be owned by Plaintiff.
2. That on or about October 26, 2020, Defendant, Justin Holder (hereafter "Defendant") filed an answer thereto.
3. That at the time said Answer was filed, Defendant was represented by Adam D. Greivell, Esquire.
4. That attorney Greivell continued to represent Defendant until April 20, 2021, approximately seven (7) months.
5. That from December 3, 2020 until the current date, Defendant has engaged in extensive/excessive discovery, including, but no limited to: Interrogatories, Request for Production of Documents, Request for Admissions of Facts (five sets) and approximately 20 – 30 depositions have been noted.
6. That the issues in this case have not altered since the filing of the complaint on September 16, 2020.
7. Defendant did not file a counter-claim until November 18, 2021, fourteen (14) months after this suit was filed.

8. That Maryland Rule 2-331 provides in relevant part:

RULE 2-331. COUNTERCLAIM AND CROSS-CLAIM

(a) Counterclaim Against Opposing Party. A party may assert as a counterclaim any claim that party has against any opposing party, whether or not arising out of the transaction or occurrence that is the subject matter of the opposing party's claim. A counterclaim may or may not diminish or defeat the recovery sought by the opposing party. It may claim relief exceeding in amount or different in kind from that sought in the pleading of the opposing party.

(d) Time for Filing. If a party files a counterclaim or cross-claim more than 30 days after the time for filing that party's answer, any other party may object to the date filing by a motion to strike filed within 15 days of service of the counterclaim or cross-claim. When a motion to strike is filed, the time for responding to the counterclaim or cross-claim is extended without special order to 15 days after entry of the court's order on the motion. The court shall grant the motion to strike unless there is a showing that the delay does not prejudice other parties to the action.

9. That Defendant's "counterclaim" requests that:

This Honorable Court enter a final Injunction prohibiting Jeffrey Young and subject parties from pleading or stating that "The Stone" described as "found" by Professional Land Surveyor George Nagel and described on Survey Certificate appended to deed recorded among the Land Records of Washington County, Maryland at Liber 6370 folio 249 is NOT the same beginning stone monument described on deed recorded at Liber 434 folio 776 of the Land Records of Washington County, Maryland and the stone monument depicted in the Northwest corner of plat at folio 778 of aforesaid deed; and ordering all such other and further relief as the nature of this case requires (Page 28).

10. That Defendant's pleading is not a "counterclaim" or a "complaint" upon which relief can be granted. Entitling the pleading "counterclaim" or "complaint" does not make it so. See: East v Gilchrist, 293 Md. 453, 445 A.2d 343 (1982).

11. That Defendant fails to explain the reason(s) his "counterclaim" was not filed within the time period specified in Maryland Rule 2-331(d).

12. That Plaintiff will be prejudiced by the Court's acceptance of the "counterclaim" in that considerable discovery has previously been conducted between all of the parties hereto during the past eleven (11) months.

II. Defendant's Bill Quia Timet has been considered by the Court and Denied.

13. That on or about May 10, 2021, Defendant filed a Bill Quia timet with the Court.

14. That on or about May 26, 2021, Plaintiff filed an Opposition thereto to which Defendant replied on May 31 and June 1, 2021.

15. That on or about June 9, 2021, the Court denied Defendant's request with prejudice.

16. That on or about June 10, 2021, Defendant filed a Motion to Alter or Amend Judgment; referring to the Court's Order of June 9, 2021.

17. That on or about June 11, 2021, Plaintiff filed an Opposition to Defendant's Motion to Alter or Amend.

18. That on or about June 17, 2021, Defendant filed a reply to Plaintiff's Opposition.

19. That on or about June 23, 2021, Defendant filed an Amended Memorandum regarding his Bill Quia Timet.

20. That on or about July 9, 2021, Plaintiff filed an Opposition to Defendant's Amended Motion.

21. That on or about July 17, 2021, Defendant again filed to Alter or Amend Judgment which was opposed by Plaintiff on July 21, 2021.

22. That on or about July 27, 2021, the Court denied Defendant's Motion to Alter or Amend Judgment.

23. That on or about July 27, 2021, Defendant noted an appeal to the Maryland Court of Special Appeals.

24. that said Appeal was subsequently dismissed by the Court on October 27, 2021, as an improper appeal of an interlocutory Order (Case No. CSA-REG-0780-2021)

25. That Defendant's request for a Bill Quia Timet was denied with prejudice by the Court on June 9, 2021. That ruling remains effective.

26. That Defendant is attempting to by-pass the Court's decision by re-styling his request as a "Counterclaim" or Complaint.

27. That Defendant's "Counterclaim" should be stricken and not allowed.

WHEREFORE, Plaintiff respectfully requests:

- A. That Defendant's "counterclaim" be stricken, with prejudice;
- B. That Plaintiff be granted such other and further relief as the nature of his claim may require.



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 301-791-5674
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Motion to Strike Counterclaim – Bill of Complaint Quia Timet for Declaratory Judgment of Law and Injunction Relief in Equity was filed this 29th day of November, 2021, was emailed to Justin Holder at jholder2004@gmail.com, and to Robert Kline, III, Esquire at rkline@cookeandkline.com and to Brandy Peeples, Esquire at brandy@peeples-law.com



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IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG

Plaintiff

v.

JUSTIN HOLDER, Et Al

Defendant(s)

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CASE NO.: C-21-CV-20-000371

**AMENDED - OPPOSITION TO MOTION TO STRIKE COUNTERCLAIM - BILL OF
COMPLAINT *QUIA TIMET* FOR DECLARATORY JUDGEMENT OF LAW AND
INJUNCTIVE RELIEF IN EQUITY - HEARING REQUESTED**

COMES NOW Counter Plaintiff/Defendant, Justin Holder, in Proper Person, and files this Opposition to Motion to Strike CounterClaim - Bill *Quia Timet* for Declaratory Judgement of Law and Injunctive Relief in Equity, and Counter Plaintiff/Defendant replies herein:

Answering Numbered Allegations in Motion to Strike

1. Numbers 1 through 6 are Admitted, objection to the relevance of representation.
2. Allegation in number 7 is Admitted subject to the interpretation of numbers 13 through 23 which are also Admitted; in other words the Claim was before the Court on May 10th, 2021, but November 18th, 2021 first titled "Counter Claim".
3. Admit number 8. Acknowledge it is the Counter Plaintiff/Defendant's burden to make "a showing that the *delay does not prejudice* other parties to the action." See

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Mattvidi Assocs. Ltd. Partnership v. NationsBank of Virginia, NA, 639 A. 2d 228 - Md: Court of Special Appeals (1994). See **Exhibit 1 - Affidavit “Without Prejudice”**

4. Admit number 9 is the Injunctive Relief Requested. Denying number 10 as Counter Defendant/Plaintiff carelessly opines; Counter Claims additional Declaration of Law is “Just the flip side of the coin” as cited by Counter Defendant/Plaintiff in *East v Gilchrist*, 293 Md. 453, 445 A.2d 343 (1982). Former Rule 605A interpreted in *East v Gilchrist, supra* differs from the new Rule 2-602(b), see *MEDICAL MUTUAL LIABILITY INS. SOC. OF MARYLAND v. Evander*, 628 A. 2d 170 - Md. (1993).
5. The set of facts giving rise to the legal rights in the separately enforceable Claims are very similar; the Declaratory relief sought by Counter Plaintiff/Defendant relates to a Stone Monument and additional land outside the initial claim. The Counter Defendant/Plaintiff is requesting the Court Declare he has adversely possessed a Parcel with an Iron Pin as the Monument. See “In [*Diener Enterprises v. Miller*, 295 A. 2d 470 - Md.: (1972)], this Court examined the requirements for separate claims for purposes of what is now Rule 2-602, stating:

‘[W]here a claimant presents a number of legal theories, but will be permitted to recover on at most one of them, his possible recoveries are mutually exclusive, and he has but a single claim for relief. The existence of multiple claims ultimately depends upon whether the ‘aggregate of the operative facts’ presented states more than one claim which can be separately enforced.’ See also, e.g., [*Planning Board v. Mortimer, supra*](#), 310 Md. at 651, 530 A.2d at 1243; [*Potter v. Bethesda Fire Dept., Inc., supra*](#), 302 Md. at 286, 487 A.2d at 290; [*Biro v. Schombert, supra*](#), 285 Md. at 295, 402 A.2d at 74; [*Harford Sands, Inc. v. Levitt & Sons, 27 Md. App. 702, 708, 343 A.2d 544, 547, cert. denied, 276 Md. 744 \(1975\)*](#) (‘a claim for purposes of [Rule 2-602 is] a set of facts giving rise to a legal right’).” *MEDICAL MUTUAL LIABILITY INS. SOC. OF MD supra*

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6. Admit number 11 and Deny number 12. See **Exhibit 1 - Affidavit “Without Prejudice”** which discusses the delay in filing Counter Claim and states 31 facts under personal knowledge that prove beyond any doubt the Counter Defendant/Plaintiff was not and could not be prejudiced by this Counter Claim.¹
7. Admit number 24. The Counter Plaintiff/Defendant has been to Court of Appeals and back; the Appeal was dismissed as not a Final Judgement under Rule 2-602(b).² If the Court has heard the claim on the merits and Counter Plaintiff/Defendant’s “relief requested” therein has been “denied with prejudice”; Counter Plaintiff/Defendant respectfully request the Honorable Court Expressly certify same under Rule 2-602(b). Counter Defendant/Plaintiff has not and can argue the merits of the Counter Claim, and has only harassed and annoyed the Counter Plaintiff/Defendant in opposition without any meritorious defense. Once the claim was before the Court of Special Appeals to be heard on the merits Counter Defendant/Plaintiff capitulated, stating the judgement was not final. Numbers 25 and 26 Denied by Order from COSA.
8. **Wherefore;** Counter Plaintiff/Defendant Denies 27. The Counter Claim is based on the same facts, the claim is not just the “flip side of the coin” from Counter

¹ The Claim was filed on May 10th, 2021 about 45 days after Counter Plaintiff/Defendant was finally able to enter with his Expert Land Surveyor by Order of the Court.

² “Prior to our order, the parties, the trial court and the Court of Special Appeals, apparently failed to notice an issue relating to the trial court's purported certification of the judgment as final under Rule 2-602. Nevertheless, this Court will consider a problem relating to the finality of a judgment *sua sponte*. *Sisk v. Friendship Packers*, 326 Md. 152, 158, 604 A.2d 69, 72 (1992), and cases there cited.” Footnote 6 in *MEDICAL MUTUAL LIABILITY INS. SOC. OF MARYLAND v. Evander*, 628 A. 2d 170 - Md. (1993).

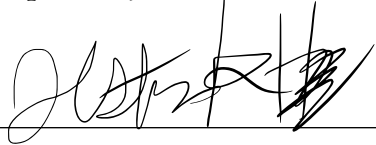
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Defendant's claim and is separately enforceable. The claim was known to Counter Defendant/Plaintiff as early as May 29th, 2020, by record title on September 25th, 2020, by answer to Complaint on October 27th, 2020, by personal knowledge on March 24th, 2021 and by action title "Bill Quia Timet" on May 10th, 2021; and therefore could not and will not prejudice Counter Defendant/Plaintiff. Discovery will not be enlarged; by the tardy filing of the Counter Claim as alleged. Counter Defendant/Plaintiff undermines his argument of "the flip side of the coin" in requesting the claim "denied with prejudice" and will most likely regret the outcome if the Claim is Stricken.³

Respectfully submitted,



Justin K. Holder, *Pro Se*
308 West Chapline Street
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(240) 356-2008

REQUEST FOR A HEARING

Honorable Clerk,

The Striking of a Counter Claim is dispositive of the Defendant's Claim, and this Defendant does kindly request a hearing, at a date convenient to the Honorable Court, on the Motion to Strike Counterclaim and includes 4 Exhibits to the Honorable Court for same.

Respectfully submitted,



Justin K. Holder, *Pro Se*

Justin K. Holder

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³ The Declaration requested in Counter Claim will in fact increase judicial economy, saving a day of trial and the expense of title experts. The Counter Defendant/Plaintiff will arguable be further prejudiced when the claim is filed as a separate action, and then consolidated for economy.

CERTIFICATE OF SERVICE

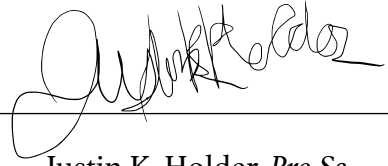
I HEREBY CERTIFY that on this 27th day of December, 2021, a copy of the foregoing Amended - Counter Plaintiff/Defendant Opposition to Motion to Strike CounterClaim - Bill *Quia Timet* for Declaratory Judgement of Law and Injunctive Relief in Equity - Hearing Requested was served via the MDEC system to :

Roland David Pembroke, Esq.,

Brandy Peebles, Esq.,

Robert Kline, Esq.,

Justin Holder, *Pro Se*


Justin K. Holder, *Pro Se*

Justin K. Holder

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IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG

Plaintiff

v.

JUSTIN HOLDER, Et Al

Defendant(s)

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CASE NO.: C-21-CV-20-000371

AFFIDAVIT - "Without Prejudice"

COMES NOW Counter Plaintiff/Defendant, Justin Holder, in Proper Person, and files this Affidavit - "Without Prejudice"; and personally affirms the validity of all stated herein:

INTRODUCTION

Counter-Defendant/Plaintiff Jeffrey Young has had specific and extensive knowledge of this claim since at least May 29th, 2020; when he walked the property lines with Justin Holder in person. On September 25th, 2021 a Deed was recorded in the Land Records of Washington County, Maryland giving notice to the World of this Claim. In October 27th, 2020 answer to Jeffrey Young's Complaint C-21-CV-20-000371; Justin Holder stated at No. 9 "Defendant has superior title to Plaintiff." On March 24th, 2021 the Counter-Defendant was shown "The Stone" monument that is a matter of the instant claim in person from 3 feet away. On May 10th, 2021 Justin Holder requested Declaratory Relief in the affirmative of

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“The Stone” shown to Jeffrey Young by paper titled “Bill Quia Timet”. Jeffrey Young by and through Counsel has refused to make any meritorious defense to the claim of Justin Holder and has avoided answering the claim by “technical objections”. Jeffrey Young was not prejudiced by the filing of this Counter-claim 30 days after the Answer to the Complaint because Mr. Young had notice in person as early as May 29th, 2020, by record title on September 25th, 2020, by answer to Complaint on October 27th, 2020, by personal knowledge on March 24th, 2021 and by action title “Bill Quia Timet” on May 10th, 2021.

PERSONALLY VERIFIED FACTS

1. The first day Justin Holder met Jeffrey Young was May 29th, 2020.
2. On May 29th, 2020 Jeffrey Young and Justin Holder walked the North Western boundary of what Mr. Young claimed to be his property.
3. On May 29th, 2020 Mr. Young pointed to an iron pin with 2 steel fence post/stakes adjacent to aforesaid iron pin and claimed that to be his northwest property corner.
4. After Examination of the land records and plat records Justin Holder determined the pin Mr. Young was pointing to on May 29th, 2020 during a site visit; was in fact the pin set by Frederic Frederick (or agent under his duty and care) when conducting survey work for plat 2499 recorded among the Plat records of Washington County, Maryland; aforesaid pin is the monument at the end of the 6th line on deed recorded at Liber 885 folio 110 of the Washington County, Maryland Land Records, in 1988.
5. On September 13th, 2021 during a deposition in case C-21-CV-20-000430, Benjamin Estes v. Justin Holder et al; Mr. Young testified he had a copy of a deed dated January

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7th, 1966 from Roy G. Reeder et ux. to Harry Wickline et ux. Recorded at Liber 434 folio 776 ("L434f776") of the Land Records of Washington County.

6. On September 13th, 2021 during a deposition in case C-21-CV-20-000430, Benjamin Estes v. Justin Holder et al; Mr. Young testified on folio 778 of a deed dated January 7th, 1966 from Roy G. Reeder et ux. to Harry Wickline et ux. Recorded at Liber 434 folio 776 ("L434f776") of the Land Records of Washington County, there was a plat he had at least seen and reviewed.
7. On March 24th, 2021 a Right of Entry by Professional Land Surveyor George Nagel, for the purposes of Discovery in Case C-21-CV-20-000371 was conducted and Justin Holder was present.
8. On March 24th, 2021 Justin Holder walked with Jeffrey Young to where Justin Holder claimed the Northeast corner of the property Justin Holder claims at 11 DogStreet Road, Keedysville, Maryland is located.
9. On March 24th, 2021 Justin Holder personally walked with Jeffrey Young within a 3 foot proximately to "The Stone" monument Justin Holder claims as the beginning monument for the property he claims at 11 Dogstreet Road in Keedysville, Maryland.
10. On March 24th, 2021 Justin Holder pointed directly to "The Stone" monument Justin Holder claims as the beginning monument for the property he claims at 11 Dogstreet Road in Keedysville, Maryland.
11. On September 13th, 2021 during a deposition in case C-21-CV-20-000430, Benjamin Estes v. Justin Holder et al; Mr. Young testified on March 24th, 2021 Justin Holder personally walked with Jeffrey Young within a 3 foot proximately to "The Stone"

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monument Justin Holder claims as the beginning monument for the property he claims at 11 Dogstreet Road in Keedysville, Maryland.

12. On September 13th, 2021 during a deposition in case C-21-CV-20-000430, Benjamin Estes v. Justin Holder et al; Mr. Young testified on March 24th, 2021 Justin Holder pointed directly to “The Stone” monument Justin Holder claims as the beginning monument for the property he claims at 11 Dogstreet Road in Keedysville, Maryland.
13. Justin Holder has personally examined folio 778 of the Land Record recorded at liber 434 folio 776 of the Washington County, Maryland Land Records and on folio 778 contains a plat with a planted Stone depicted in the NorthEast corner of the lands purported to be conveyed.
14. Justin Holder has told Jeffrey Young and his Counsel that Justin Holder claims “The Stone” he personally showed Jeffrey Young on March 24th, 2021 is the same monument used to describe the Northwest corner of the land Justin Holder claims at 11 DogStreet Road in Keedysville, MD.
15. Plat 2499 filed among the Land Records of Washington County, Maryland Purport the Northeast corner of aforesaid land is marked with an Iron Pin “set” by Professional Land Surveyor Frederic Frederick in 1988.
16. Jeffrey Young on May 29th, 2020 has shown Justin Holder the Iron Pin at the NorthEast Corner of the Land Jeffrey Young Claims at 13 DogStreet Road in Keedysville, Maryland.
17. On July 20th, 2021 Justin Holder served Jeffrey Young with answers to Interrogatories that discuss “The Stone” and Justin Holder’s claim(s) at answer (4)(J).
18. On May 10th, 2021 Justin Holder filed an action titled “Bill Quia Timet” with the Circuit Court of Washington County in Case C-21-CV-20-000371; aforesaid action specifically

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requested declaratory judgement of “The Stone” Justin Holder personally showed Jeffrey Young on March 24th, 2021.

19. Jeffrey Young by and through Counsel filed a paper titled “Opposition to Bill Quia Timet and Request for **Declaratory Judgment**” on May 26, 2021.
20. Jeffrey Young by and through Counsel filed a paper titled “Opposition to Bill Quia Timet and Request for Declaratory Judgment” that stated “WHEREFORE, Plaintiff, Jeffrey Young, respectfully requests this Honorable Court: A. Deny Defendant’s Bill Quia Timet and the **relief requested therein, with prejudice**; B. Grant Plaintiff such other and further relief as his cause may require. “
21. Jeffrey Young by and through Counsel filed a paper titled “Opposition to Bill Quia Timet and Request for Declaratory Judgment” that stated “That some of the “undisputed facts” **contained in said Bill are in fact disputed by the Plaintiff and form the basis of Plaintiff’s suit to Quiet Title to Plaintiff’s real property.**”
22. Jeffrey Young by and through Counsel filed a paper titled “Opposition to Bill Quia Timet and Request for Declaratory Judgment” that stated “That Plaintiff’s suit, when resolved by the Court, will **adjudicate the parties’ respective rights regarding the property involved and granting a Declaratory Judgment as requested by the Defendant is an inappropriate legal vehicle to be utilized in this context**, Clearly, the Defendant does not understand the application of a Declaratory Judgment in a case.”
23. Justin Holder’s Bill Quia Timet was denied by the Court with prejudice, Motion to Alter or Amend denied with prejudice and Justin Holder filed a Notice of Appeal.
24. On October 13th, 2021 in an email titled “COSA Record Extract ” discussing the records Extract for the Appeal from the decision denying Justin Holders “Bill Quia Timet” with

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prejudice; Jeffrey Young by and through Counsel stated “Also, Mr. Young disagrees that there are "final orders" in this matter. “

25. On October 27th, 2021 the Court of Special Appeals dismissed the Appeal regarding the denial with prejudice by the Trial Court of the May 10th, 2021 “Bill *Quia Timet*” with prejudice; as “not allowed by law pursuant to Maryland Rule 8-602(b)(1) it is as a premature appeal from a non-final judgement.
26. Jeffrey Young by and through Counsel, was served with the decision from the Court of Special Appeals and thus notified that Justin Holder’s claim in May 10th, 2021 “Bill *Quia Timet*” was not a final judgement.
27. On November 15th, 2021 Jeffrey Young by and through Counsel filed a paper titled “OPPOSITION TO MOTION FOR SANCTIONS” that stated at No. 9 “That Plaintiff admits the allegations contained in Paragraph 19 that the Court of Special Appeals has affirmed that the Order is not a final order. Plaintiff denies that the Bill Qua Timet claim is live having been denied twice by the Circuit Court.”
28. On September 25th, 2020 deed dated August 10th, 2020 Granted from Stonecrest Development LLC to Justin Holder was recorded among the Land Records of Washington County, Maryland at Liber 6370 folio 249; aforesaid deed has a Surveyor Certificate signed by Professional Land Surveyor George Nagel that describes “The Stone” (Justin Holder had personally shown Jeffrey Young on March 24th, 2021; in the immediate vicinity of the Iron Pin Jeffrey Young had personally shown Justin Holder on May 29th, 2020.) as “found” by Professional Land Surveyor George Nagel; appended to aforesaid deed at folio 253.

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29. The Complaint filed by Jeffrey Young on September 16th, 2021 alleges in ¶15 that the last owner of Parcel 3 was unknown and Parcel 3 as alleged in the Complaint includes lands claimed by Justin Holder in the deed recorded at Liber 6370 folio 249 of the Washington County, Maryland Land Records.
30. The Complaint filed by Jeffrey Young on September 16th, 2021 alleges in ¶18 that Justin Holder's agents claimed Justin Holder acquired property from a developer; the deed recorded at Liber 6370 folio 249 of the Washington County, Maryland Land Records was Granted from Stonecrest Development, LLC.
31. In October 27th, 2020 answer to Jeffrey Young's Complaint C-21-CV-20-000371; Justin Holder stated at No. 9 "Defendant has superior title to Plaintiff."

VERIFICATION

I Justin K. Holder solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing section title "Personally Verified Facts" numbered 1 through 31 in the foregoing paper are true.

Justin Holder

Respectfully submitted,



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308 West Chapline Street
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Justin K. Holder

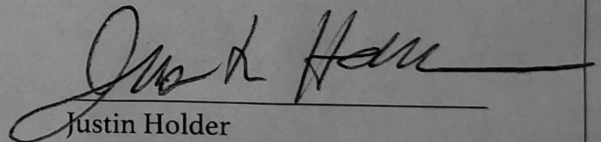
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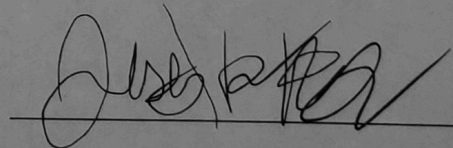
29. The Complaint filed by Jeffrey Young on September 16th, 2021 alleges in ¶15 that the last owner of Parcel 3 was unknown and Parcel 3 as alleged in the Complaint includes lands claimed by Justin Holder in the deed recorded at Liber 6370 folio 249 of the Washington County, Maryland Land Records.
30. The Complaint filed by Jeffrey Young on September 16th, 2021 alleges in ¶18 that Justin Holder's agents claimed Justin Holder acquired property from a developer; the deed recorded at Liber 6370 folio 249 of the Washington County, Maryland Land Records was Granted from Stonecrest Development, LLC.
31. In October 27th, 2020 answer to Jeffrey Young's Complaint C-21-CV-20-000371; Justin Holder stated at No. 9 "Defendant has superior title to Plaintiff."

VERIFICATION

I Justin K. Holder solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing section title "Personally Verified Facts" numbered 1 through 31 in the foregoing paper are true.


Justin Holder

Respectfully submitted,



Justin K. Holder, Pro Se
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

Justin K. Holder

Pro Se Litigator

308 W. Chapline St.
Sharpsburg, MD 21782
t: (240) 356-2008
holder2004@gmail.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of November, 2021, a copy of the foregoing Affidavit "Without Prejudice" was served via the MDEC system to :

Roland David Pembroke, Esq.,
Brandy Peebles, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*

A handwritten signature in black ink, appearing to read "Justin K. Holder", is written over a horizontal line.

Justin K. Holder, *Pro Se*

Justin K. Holder

Pro Se Litigator

308 W. Chapline St.
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t: (240) 356-2008
older2004@gmail.com

1449
AFFIDAVIT OF SERVICE

Case: C-21-cv-20-000371	Court: Circuit Court for Washington County	County: Washington, MD	Job: 5927329 (Department of General Services)
Plaintiff / Petitioner: Jeffrey Young		Defendant / Respondent: Justin Holder	
Received by: Freestate Investigations, LLC		For: Justin Holder	
To be served upon: Department of General Services			

I, Paul Koch II, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Department of General Services c/o Michael Swygert, Director, Company: 7275 Watereloo Rd, Jessup, MD 20794-9795

Manner of Service: Government Agency, Jul 26, 2021, 10:09 am EDT

Documents: Notice of Deposition Duces Tecum of Maryland Department of General Services, Schedule of Documents, Certificate of Records of Regularly Conducted Business Activity, Subpoena

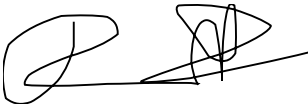
Details:

1) Unsuccessful Attempt: Jul 23, 2021, 3:36 pm EDT at Company: 7275 Watereloo Rd, Jessup, MD 20794-9795
Location is closed. Unable to get anyone.

2) Successful Attempt: Jul 26, 2021, 10:09 am EDT at Company: 7275 Watereloo Rd, Jessup, MD 20794-9795 received by Department of General Services c/o Michael Swygert, Director. Age: 40; Ethnicity: Caucasian; Gender: Male; Weight: 180; Height: 5'9"; Hair: Brown; Relationship: Director;

Fees: \$85.00

I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing paper are true.



07/26/2021

Paul Koch II

Date

Freestate Investigations, LLC
8145-N Baltimore Ave Suite 195
College Park, MD 20740-2431
1-888-462-2714

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG

Plaintiff

v.

JUSTIN HOLDER, *et al.*

Defendants

Case No. C-21-CV-20-000371

CERTIFICATE REGARDING DISCOVERY

The Defendant, Pro Se, Justin K. Holder, gives notice that on this 15th day of August, 2021, it caused a copy of this notice, along with, Subpoena *Duces Tecum* to Christopher Wetzel, Susan Selby, Erin Ickes, Kristen Pickett, Rebecca Larson, Charles Blancato, Jessica Cochran and Carissa Meyers to be served via Mdec and electronic mail on parties of record:

Respectfully submitted,



Justin Holder, Pro Se
308 West Chapline St.
Sharpsburg, MD 21782
jholder2004@gmail.com
(240) 356 - 2008

Certificate of Service

I hereby certify that on this 15th day of August, 2021, the foregoing Certificate Regarding discovery was filed via MDEC and thus served electronically upon counsel of record, and the foregoing paper's of Notice Subpoena's *Duces Tecum* was sent via Electronic Mail, including:

Roland David Pembroke, Esq.,
Robert Kline, Esq,
Matt Ruble, Esq.,
Justin Holder, Pro Se.

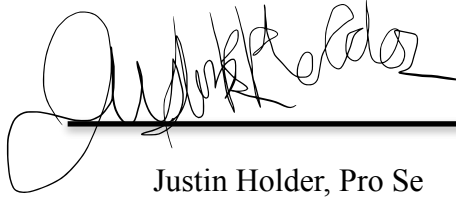


Justin K. Holder, Pro Se

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND**JEFFREY YOUNG****Plaintiff****v.****JUSTIN HOLDER, *et al.*****Defendants****Case No. C-21-CV-20-000371****CERTIFICATE REGARDING DISCOVERY**

The Defendant, Pro Se, Justin K. Holder, gives notice that on this 26th day of October, 2021, it caused a copy of this notice, along with, Subpoena *Duces Tecum* to David Ickes, John Pickett and Scott Morral to be served via Mdec and electronic mail on parties of record:

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Justin Holder", written over a solid black horizontal line.

Justin Holder, Pro Se
308 West Chapline St.
Sharpsburg, MD 21782
jholder2004@gmail.com
(240) 356 - 2008

Certificate of Service

I hereby certify that on this 26th day of August, 2021, the foregoing Certificate Regarding discovery was filed via MDEC and thus served electronically upon counsel of record, and the foregoing paper's of Notice Subpoena's *Duces Tecum* was sent via Electronic Mail, including:

Roland David Pembroke, Esq.,
Robert Kline, Esq,
Brandy Peeples, Esq.,
Justin Holder, Pro Se.

A handwritten signature in black ink, appearing to read "Justin K. Holder", written over a solid black horizontal line.

Justin K. Holder, Pro Se

Case: C-21-CV-20-000371	Court: Circuit Court for Washington County	County: Washington County, MD	Job: 6350179
Plaintiff / Petitioner: Jeffrey Young		Defendant / Respondent: Justin Holder	
Received by: Maryland Judiciary Process Servers		For: Justin Holder	
To be served upon: Department Of Natural Resources c/o Corporate Designee			

I, Joe Horton, being duly sworn, depose and say: I am over the age of 18 years and not a party to this action, and that within the boundaries of the state where service was effected, I was authorized by law to make service of the documents and informed said person of the contents herein

Recipient Name / Address: Department Of Natural Resources c/o P. Lockheed, Receptionist , Department of Natural Resources: 580 Taylor Ave, Annapolis , MD 21401

Manner of Service: Government Agency, Nov 15, 2021, 4:28 pm EST

Documents: Notice of Videotaped Oral Deposition Duces Tecum of Corporate Representative for the Maryland Department of Natural Resources with Exhibits

Additional Comments:

1) Successful Attempt: Nov 15, 2021, 4:28 pm EST at Department of Natural Resources: 580 Taylor Ave, Annapolis , MD 21401 received by Department Of Natural Resources c/o P. Lockheed, Receptionist . Age: 40; Ethnicity: Caucasian; Gender: Male; Weight: 190; Height: 5'10"; Hair: Brown;

Served all documents on P. Lockheed, Receptionist who indicated that he was authorized to accept service on behalf of Department of Natural Resources, Corporate Designee.



11/15/2021

Joe Horton

Date

Maryland Judiciary Process Servers
8482 Fort Smallwood Road Suite B-110
Pasadena, Maryland 21122

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG

Plaintiff

v.

Case No. C-21-CV-20-000371

JUSTIN HOLDER, *et al.*

Defendants

AMENDED CERTIFICATE REGARDING DISCOVERY

The Defendant, *Pro Se*, Justin K. Holder, gives notice that on this 16th day of November, 2021, it caused a copy of this Amended notice, along with, Subpoena *Duces Tecum* of Department of Natural Resources; to be served via Mdec on parties of records and electronic mail on civil_service@oag.state.md.us:

Respectfully submitted,



Justin Holder, *Pro Se*
 308 West Chapline St.
 Sharpsburg, MD 21782
jholder2004@gmail.com
 (240) 356 - 2008

Certificate of Service

I hereby certify that on this 16th day of November, 2021, the foregoing Amended Certificate Regarding discovery was filed via MDEC and thus served electronically upon counsel of record, and the foregoing paper's of Notice Subpoena's *Duces Tecum* was sent via Electronic Mail, including:

Roland David Pembroke, Esq.,
Robert Kline, Esq.,
Brandy Peeples, Esq.,
Attorney General - civil_service@oag.state.md.us,
Justin Holder, *Pro Se*.

A handwritten signature in black ink, appearing to read 'Justin K. Holder', is written over a solid black horizontal line.

Justin K. Holder, *Pro Se*

1457
LAW OFFICES
R. DAVID PEMBROKE
21 SUMMIT AVENUE
HAGERSTOWN, MARYLAND 21740
(301) 791-5674
FAX (301) 791-3505

April 15, 2022

The Honorable Andrew F. Wilkinson
Associate Judge
Circuit Court for Washington County, Maryland
24 Summit Avenue
Hagerstown, Maryland 21740

RE: Young V. Holder, et. al.
Case No. C-21-CV-20-000371

Dear Judge Wilkinson:

Pursuant to the Case Management Order issued in this matter on March 3, 2022 (copy attached), Plaintiff seeks the Court's leave, through counsel, to file a Motion to Strike Defendant Justin Holder's Second Amended Answer of Justin Holder, filed on April 12, 2022 for the following reasons:

- A. The Amended Answer was filed in violation of the aforementioned Case Management Order which clearly requires that Defendant seek leave of the Court prior to filing "substantive motions" including amendment of pleadings. Defendant has clearly failed to comply with said Order.
- B. The Amended Answer has been filed more than a year and a half after the Complaint was filed on September 16, 2020. Defendant Holder has engaged in excessive and abusive discovery through this matter and has therefore obtained extensive information regarding the facts and circumstances of this matter. To file an Amended Answer at this late date is inequitable and should not be permitted.
- C. Defendant's Second Amended Answer does not comply with the requirements of Maryland Rule 2-323(a) which states, in part: "The answer shall be stated in short and plain terms and shall contain the following: (1) the defenses permitted by Rule 2-322 (b) that have not been raised by motion, (2) answers to the averments of the claim for relief pursuant to section (c) or (d) of this Rule, and (3) the defenses enumerated in sections (f) and (g) of this Rule."

Plaintiff's Complaint consists of approximately twenty (20) numbered paragraphs. Defendant's Second Amended Answer is fifty-eight (58) pages and contains 201 numbered paragraphs, most of which relate to alleged facts from the perspective of the Defendant which should be presented during the trial of this matter and are not appropriate to be contained in a purported "Answer" which is intended to be a concise response to the allegations contained in the Complaint. See Maryland Rule 2-323 (c).

Young V. Holder
Letter to Judge Wilkinson
April 15, 2022
Page 2

Plaintiff therefore respectfully requests leave of the Court to file a Motion to Strike the Second Amended Answer of Justin Holder.

Very Truly Yours,

A handwritten signature in cursive script, appearing to read "R. David Pembroke", followed by a horizontal line.

R. David Pembroke

CC: Justin Holder, Defendant, *pro se*

Robert Kline, ESQ.

Brandi Pepples, ESQ.

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG

Plaintiff

v.

JUSTIN HOLDER, Et Al

Defendant(s)

*

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CASE NO.: C-21-CV-20-000371

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MOTION TO DISMISS - FAILURE TO STATE A CLAIM

COMES NOW Defendant, Justin Kyle Holder, in proper person and files this Motion to Dismiss - Failure to State a Claim, in accordance with case management order as a dispositive motion, and for reasons states:

OVERVIEW

On September 16th, 2020 Plaintiff Jeffrey Young filed a Complaint to Quiet Title and for Declaratory relief naming Justin and Deena Holder as defendants. Plaintiff request the Court declare he has adversely possessed parcels 2 and 3 on a certain plat 2499. In the Complaint the Plaintiff totally fails to name the record owner of parcels 2 and 3 that he request the Court declare he has adversely possessed, or what hostile rights the Defendants are asserting over parcels 2 and 3 that create a controversy. Plaintiff has had 18 months to conduct discovery and his amendment of rights has come and gone. Plaintiff's Complaint taking all the inferences in a light most favorable to Plaintiff fails to state a claim upon which relief can be granted. The record owner must be named to the suit as required by Md. Ann. RP § 14-108(b). Plaintiff has failed to state a claim that an actual controversy exist in the allegations of his complaint. Plaintiff has had 18 months to discover and amend his complaint to be compliant with the law and failed. The Complaint should be dismissed with prejudice.

*Justin K. Holder***Pro se Litigator**

308 W. Chapline St.
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t: (240) 356-2008
holder2004@gmail.com

PERTINENT FACTS FROM COMPLAINT

¶10 "The Land Records, Tax Records and Tax Maps of Washington County, Maryland, reflect that title to the Parcels is held by Jeffrey L. Young."

¶11 "Since the execution and recording of the aforesaid Deed dated January 3, 1988, and recorded at Liber 885, Folio 110, Plaintiff has been in actual, exclusive, open, visible, notorious, continuous, peaceable, hostile, and adverse possession of the property shown as Parcels 2 and 3 on the aforesaid Plat Folio 2499"

¶13 "Plaintiffs actual, exclusive, open, notorious and adverse possession of the property has been for a continuous period of more than thirty-two (32) years, through actual possession and under color of title."

¶14 "Prior to the execution and recording of the aforementioned Deeds to Plaintiff, Plaintiffs predecessor's in title had also been in actual, exclusive, open, visible, notorious, continuous, peaceable, hostile, and adverse possession of the herein described property."

¶15 "The last title owner of Parcel 3, shown on the aforesaid Plat, is unknown. Since June 21, 1996, the Deeds of the adjacent property owners have described their eastern most boundary as Plaintiff's western most boundary as shown on the aforesaid Plat."

¶16 "The last title owner of Parcel 2 shown on the aforesaid Plat was Jennifer Butts who conveyed all of her right, title, and interest in and to said Parcel to Plaintiff by Deed dated August 16, 1993, and recorded at Liber 1108, Folio 790 of the aforesaid Land Records."

¶20 "There is no person or party, record or in fact, having or claiming to have any hostile, right, or interest in or to said property. Plaintiff has made reasonable and good faith efforts to locate any such party by conducting a thorough examination of all pertinent land, and estate and tax records for Washington County, Maryland, and has as well interrogated the owners of adjoining properties in order to uncover such claims and none have been uncovered"

GROUND AND AUTHORITIES - MOTION TO DISMISS

In deciding a motion to dismiss, the facts alleged in the complaint must be assumed to be true. *Warner v. Lerner*, 348 Md. 733, 735, 705 A.2d 1169, 1170 (1998). However, the Court need not accept as true any legal conclusions asserted in a complaint, particularly if they are incorrect legal assertions. *Yousef v. Trustbank*, 81 Md. App. 527, 536, 568 A.2d 1134, 1138 (1990); *Berman v. Karvounis*, 308 Md. 259, 265, 518 A.2d 726, 729 (1987). Maryland Rule 2-305 requires that a complaint "shall contain a clear statement of the facts necessary to constitute

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a cause of action and a demand for judgment for the relief sought.” In determining whether that requirement has been met, a trial court must “assume the truth of, and view in a light most favorable to the non-moving party, all well-pleaded facts and allegations contained in the complaint, as well as all inferences that may reasonably be drawn from them.” *RRC Northeast, LLC v. BAA Md., Inc.*, 413 Md. 638, 643, 994 A.2d 430, 433 (2010) (citations omitted). The facts setting forth the cause of action, “must be pleaded with sufficient specificity; bald assertions and conclusory statements by the pleader will not suffice.” *Id.* at 644, 994 A.2d at 434. The Court need not accept as true unwarranted inferences, unreasonable conclusions or arguments. See *Bobo v. State*, 346 Md. 706, 708-09, 697 A.2d 1371, 1372 (1997). If the facts alleged were true but would still not afford the Plaintiff relief, the Complaint should be dismissed. See *Litz v. Md. Dept. of the Environment*, 434 Md. 623, 639 (2013).

ARGUMENT - THE RECORD OWNER IS A NECESSARY PARTY

Plaintiff's Complaint fails to state who the record owner of the property he claims to have adversely possessed is. Plaintiff has failed to meet the requirement of the Quiet Title statute, and his right to amend has expired. Plaintiff's suit in equity must be dismissed with prejudice. The Court of Appeals has recently opined:

“To be sure, under RP § 14-108(b), a record owner is required to be made a defendant to an action to quiet title. ... In other words, on remand, the Estate would be permitted to file an amended complaint that is accompanied by the necessary affidavit described in RP § 14-610(b) and Maryland Rule 12-805(b).

As an initial matter, we conclude that the circuit court improperly proceeded with trial in the absence of joinder of a necessary party, *i.e.*, the record owner of the Disputed Property, and with making a determination as to who, between the parties, had the right to possess and use the Disputed Property without the record owner of the Disputed Property being joined as a defendant. Under RP § 14-108(b) and its predecessors, “[a]ny person who appears of record, or claims to have a hostile outstanding right, shall be made a defendant in the proceedings[to quiet title].” Simply put, a record owner of property that is subject to an action to quiet title is a necessary

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party, and must be joined as a defendant to the action. Indeed, in *Jenkins v. City of College Park*, 379 Md. 142, 157, 840 A.2d 139, 147 (2003), this Court expressly stated that RP § 14-108(b)'s predecessor 'clearly mandate[d] that, in pursuing an *in rem* proceeding to quiet title, a plaintiff *shall name all persons identified by the land records as having an interest in the property or otherwise claiming an interest in the property in question.*' (Emphasis in original). This is obviously so because any outstanding claims to a property, such as those that a record owner who is not a defendant may have, are clouds on the property's title that would prevent a trial court from granting the relief that is afforded by RP § 14-108(b)—namely, 'a decree that the plaintiff has absolute ownership and the right of disposition of the property[.]' It is undisputed in this case that the Estate did not name and join the Disputed Property's record owner as a defendant in the action to quiet title, although RP (2015) § 14-108(b) clearly required that the Estate do so. Thus, in this regard, we agree with the Court of Special Appeals that the circuit court should not have proceeded with a bench trial under the circumstances of this case. [Emphasis Added]

Estate of Zimmerman v. Blatter, 183 A.3d 223, 458 Md. 698 (2018).

Plaintiff has been on notice of the Quiet Title requirements since Defendants answered and utterly refused to join/name the record owner of the property he claims to have adversely possessed. The Statute is clear and designed to protect the record owner in accordance with Article 24 of the Maryland Declaration of rights. What if the record owner is in the military, severely ill or worse? If all the well pled facts in the Complaint are true, ¶20 "There is no person or party, record or in fact, having or claiming to have any hostile, right, or interest in or to said property. Plaintiff has made reasonable and good faith efforts to locate any such party by conducting a thorough examination of all pertinent land, and estate and tax records for Washington County, Maryland, and has as well interrogated the owners of adjoining properties in order to uncover such claims and none have been uncovered". The Well pled facts in the complaint, taken in the light most favorable to the Plaintiff clearly state that the Plaintiff owns the property and has no need to be in Court. If Plaintiff is unable to locate the record owner of parcels 2 and 3, the Plaintiff does not need to file a quiet title, he need go get a warrant to survey and apply for a land patent!

Justin K. Holder

Pro se Litigator

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DECLARATORY JUDGEMENT IS PURELY ADVISORY - NO CONTROVERSY

Plaintiff fails to allege in his complaint who the record owner of the property he claims to have adversely possessed. Plaintiff's Complaint, does not contend that there is any actual controversy between himself and the record owner of Parcels 2 and 3, that antagonistic claims are present between himself and the record owner of Parcels 2 and 3, or that Plaintiff has previously asserted a "legal relation, status, right or privilege" that has been challenged by the record owner of Parcels 2 and 3. Md. Code Ann., Cts. & Jud. Proc. § 3-409(a)(3). These elements have been alternatively characterized by the Court of Appeals as a "justiciable controversy." *Hamilton v. McAuliffe*, 277 Md. 336, 339, 353 A.2d 634, 337 (1976).

In other words, a complaint for declaratory judgment must allege facts sufficient to establish a justiciable controversy existing between the parties at the time suit is brought. *Hatt v. Anderson*, 297 Md. 42, 45–46, 464 A.2d 1076, 1078 (1983). Maryland Courts have defined a justiciable controversy in the following manner:

To be justiciable the issue must present more than a mere difference of opinion, *Kirkwood v. Provident Savings Bank*, 205 Md. 48, 106 A.2d 103 (1954), and there must be more than a mere prayer for declaratory relief, *Master v. Master*, 223 Md. 618, 166 A.2d 251 (1960). Indeed, the addressing of non-justiciable issues would place courts in the position of rendering purely advisory opinions, a long forbidden practice in this State. *See, e.g., Planning Commission v. Randall*, 209 Md. 18, 120 A.2d 195 (1956); *Tanner v. McKeldin*, 202 Md. 569, 97 A.2d 449 (1953); *Hammond v. Lancaster*, 194 Md. 462, 71 A.2d 474, cert. denied, 339 U.S. 908, 70 S.Ct. 563, 94 L.Ed. 1336 (1950).

Id. at 46, 464 A.2d at 1078. A justiciable controversy is required to maintain a suit for declaratory relief. *See id.* at 45–47, 464 A.2d at 1078–79 (affirming a trial court's grant of summary judgment on the basis that no justiciable controversy existed and confirming that "the existence of a justiciable controversy is an absolute prerequisite to the maintenance of a declaratory judgment action."); *see also Boyds Civic Ass'n v. Montgomery Cty. Council*, 309 Md. 683, 690, 526 A.2d 598, 601 (1987) ("It follows, therefore, that in the absence of a

Justin K. Holder

Pro se Litigator

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justiciable controversy a court should not entertain an action for declaratory judgment”). Accordingly, the Defendants should be dismissed from the instant litigation, as a justiciable controversy between Plaintiff and the Defendants is clearly absent.

Additionally, although Plaintiff did allege the existence of a justiciable controversy between himself and the Defendants at ¶8 “involving the rights of the parties and ownership of the Parcels.”, Plaintiff fails to allege what those rights are and what record ownership is being claimed by the Defendants that create the controversy. The Plaintiff states at ¶10 “Tax Maps of Washington County, Maryland, reflect that title to the Parcels is held by Jeffrey L. Young.”, ¶15 “Since June 21,1996, the Deeds of the adjacent property owners have described their eastern most boundary as Plaintiff’s western most boundary as shown on the aforesaid Plat.”, ¶16 “The last title owner of Parcel 2 shown on the aforesaid Plat was Jennifer Butts who conveyed all of her right, title, and interest in and to said Parcel to Plaintiff by Deed dated August 16,1993, and recorded at Liber 1108, Folio 790 of the aforesaid Land Records.” and ¶20 “There is no person or party, record or in fact, having or claiming to have any hostile, right, or interest in or to said property. Plaintiff has made reasonable and good faith efforts to locate any such party by conducting a thorough examination of all pertinent land, and estate and tax records for Washington County, Maryland, and has as well interrogated the owners of adjoining properties in order to uncover such claims and none have been uncovered” The well pled facts in the Complaint clearly states the Plaintiff owns the property, and that ownership has not been challenged. The Plaintiff has failed to state whose property it is that he claims to have adversely possessed and the Courts opinion would be clearly advisory.

Justin K. Holder

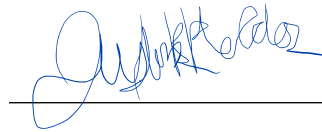
Pro se Litigator

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Sharpsburg, MD 21782
t: (240) 356-2008
holder2004@Gmail.com

CONCLUSION

Plaintiff Young has failed to state a claim upon which relief can be granted. Plaintiff has had 18 months to discover and search land records and name the record owner of the land he claims to have adversely possessed. Plaintiff is seeking a purely advisor opinion from the Court, and failed to allege a controversy with specific facts. Plaintiff has failed to follow the rules and law, in a cavalier attitude throughout the course of the instant litigation, in motion after motion, and name the record owner in accordance with the law. Amendment of rights have come and gone, and the Plaintiff has neglected to allege a controversy exist as to the named Defendants in his Complaint. The Plaintiff's complaint does not state a claim in which the Court can afford Plaintiff relief. The Court must dismiss the complaint with prejudice as to the named Defendants.

Respectfully submitted,



Justin K. Holder, *Pro Se*
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of April 2022, a copy of the foregoing Motion to Dismiss - Failure to State a Claim was served via the MDEC system to :

Roland David Pembroke, Esq.,
Brandy Peebles, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*;



Justin K. Holder, *Pro Se*

Justin K. Holder

Pro se Litigator

308 W. Chapline St.
Sharpsburg, MD 21782
t: (240) 356-2008
holder2004@Gmail.com

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG

Plaintiff

v.

JUSTIN HOLDER, Et Al

Defendant(s)

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CASE NO.: C-21-CV-20-000371

NOTICE OF APPEAL - COLLATERAL ORDER - SLAPP - REQUEST OF STAY

COMES NOW Defendant, Justin Kyle Holder, in proper person, and files this Defendant's Notice of Appeal - COLLATERAL ORDER - SLAPP - REQUEST OF STAY, in accordance with MD Rule 8-131(d) and MD. Courts and Judicial Proceedings Code Ann. § 5-807, and for reasons states:

THE UN-REVIEWABLE COLLATERAL ORDER

The Record reflects that there is no genuine dispute of fact:

The Order Conclusively determined the disputed question;

- (a) Defendants have requested redress of grievance from the local Government;
- (b) The Plaintiff has filed the lawsuit to chill the Defendants' request for redress;
- (c) The local Government has refused to redress the grievance of the Defendants citing the lawsuit as a Barr to redress in Public forum openly and notoriously;
- (d) The Circuit Court denied the Defendant's Request for relief under SLAPP;

The Issue is Separate from the merits of the action;

- (e) The Court has precluded the Defendants from entering evidence into the record regarding Public Rights of Record and denied Defendants discovery of same;
- (f) The pleadings do not place Public Rights of Record at issue in the instant litigation;

The Appeal will Resolve an important issue;

- (g) A citizen's right to redress is the 1st Amendment in the United States Constitution;
- (h) The United States Constitution and the Maryland State Constitution encourage separation of powers, and the judicial can not pre-empt the legislature;
- (i) The Court enjoining 2 members of the Public from a public place would deny those members of the Public writ large' equal protection under the law;

The Order is Un-reviewable on Appeal

- (j) The Plaintiff in requesting the Defendant enjoined and disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in some manner, destroyed, or deprived of his life, liberty or property;
- (k) The facts decided by the Court will not be decided by a jury of the Defendants' peers;
- (l) The record will NOT contain the evidence of the Public Rights for Appellate review;
- (m) The Legislature will continue to refuse the Defendant redress as the case is appealed;
- (n) The Defendant is *Pro Se* and is not financially able to pay Counsel to articulate the complex constitutionally issues to the Appellate;
- (o) There is no process of law known to man in which a Circuit Court Judge can arbitrarily and capriciously extinguish the Public Rights of Record when the Public is not a party;
- (p) MD. Courts and Judicial Proceedings Code Ann. § 5-807 provides the Defendant with an absolute priveledge not to stand trial in substitution for his right to redress; and

WHEREFORE, the Court's Collateral Order has pre-empted the Legislature and effectively denied Defendant his constitutional right of redress with legislature; providing the Government an unfair advantage over the individual by constructively denying the individual redress in cooperation with the Judicial; and the decision to disseize Defendant of his freehold, liberties or privileges will be effectively UN-REVIEWABLE by the APPELLATE. The Defendant files this NOTICE of APPEAL.

REQUEST OF STAY

The Defendant humbly and respectfully request the Court Stay the Case until the Defendant's Appeal is heard; or

The Local Government provides redress to the Defendant's Grievance:

Dear Mr. Holder

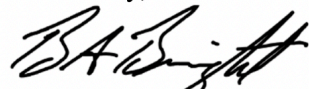
Our office is in receipt of your email dated December 1, 2020 requesting certain information. Your request and the County's correlating response are set forth below.

"... as of the time and day the county reads this email, and assuming the county has good title to all said roads(The title to all roads is in Land Records.) please explain the county's intent to abandon them. Using the screenshot of the 1936 atlas attached please answer repair or abandon for the following roads:

1. I-424 or 19-08 full length
- 2 i-268 full length
3. I-669 or 19-07 full length
- 4.19-06 from dog street road to main street."

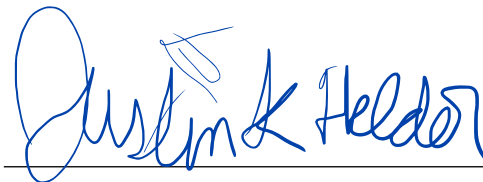
You have made clear your request that the County either repair the roads you have identified or abandon any claim that it may have to them. To the best of my knowledge, the County has not decided what, if anything, to do with the roadways that you have identified. Our office is not in a position to commit the County to either of those options.

Sincerely,



B. Andrew Bright
Assistant County Attorney

Respectfully submitted,



Justin K. Holder, *Pro Se*
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of May, 2022, a copy of the foregoing Defendant's Notice of Appeal - COLLATERAL ORDER - SLAPP - REQUEST OF STAY was served via the MDEC system to :

Edward Kuczyński, Esq.,
Kevin Karpinski, Esq.,
Talley Kovacs, Esq.,
Peter Rogers, Esq.,
R. David Pembroke, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*



Justin K. Holder, *Pro Se*

Kirk C. Downey
County Attorney



Deputy County Attorney

B. Andrew Bright
Assistant County Attorney

OFFICE OF THE COUNTY ATTORNEY

December 9, 2020

Re: Public Information Act Request
dated 12/1/2020

jholder2004@gmail.com

Justin Holder
308 West Chapline Street
Sharpsburg, MD 21782

Dear Mr. Holder

Our office is in receipt of your email dated December 1, 2020 requesting certain information. Your request and the County's correlating response are set forth below.

"... as of the time and day the county reads this email, and assuming the county has good title to all said roads(The title to all roads is in Land Records.) please explain the county's intent to abandon them. Using the screenshot of the 1936 atlas attached please answer repair or abandon for the following roads:

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You have made clear your request that the County either repair the roads you have identified or abandon any claim that it may have to them. To the best of my knowledge, the County has not decided what, if anything, to do with the roadways that you have identified. Our office is not in a position to commit the County to either of those options.

Sincerely,

B. Andrew Bright
Assistant County Attorney

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

JUSTIN HOLDER

Appellant

v.

JEFFREY YOUNG

*Appellee**
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*
*
*

No. 508 September Term, 2022

CC CASE NO.: C-21-CV-20-000371

OPPOSITION TO APPELLEE's MOTION TO DISMISS - REQUEST FOR HEARING

COMES NOW Appellant, Justin Holder, in Proper Person, and files this Opposition to Appellee's Motion to Dismiss - Request for Hearing, and for reasons states:

OPPOSITION

Appellee Young has filed a Motion to Dismiss an interlocutory appeal (the "MTD"), that has not yet been briefed. The MTD includes multiple facts not in the record and does not include an "Affidavit"[,]"records or papers which it is based" in support,¹ therefore the MTD should be denied. Appellant will narrow his opposition to the merits of the instant MTD and will not address any speculative arguments related to what the Appellee alleges the Appellant brief will bring to issue. The Appellee's MTD does allege a peculiar dispute of material fact that Appellant request the Court resolve in his favor in this preliminary Motion. Once the aforementioned material fact is resolved the MTD should be denied.

¹ Rule 8-603 "(d) Affidavit. A motion to dismiss or response that is based on facts not contained in the record or papers on file in the appellate court shall be supported by affidavit and accompanied by any part of the record or papers on which it is based." *Md. R. Rev. Ct. App. & Spec. App. 8-603*

NARROW ARGUMENT WITH GROUNDS

Appellee Young asserts the Appeal is frivolous² while acknowledging the exception to the “Bedrock Principles”³ on Final Judgement in the collateral order doctrine. Appellee apparently conceding the Appeal meets 3 of the 4 criteria for a “collateral order” in that:

- 1) “the order must conclusively determine the disputed question”;
- 2) “the order must resolve an important issue”; and
- 3) “the issue would be effectively unreviewable if the appeal had to await the entry of a final judgment.”

That leaves the narrow factual dispute and Appellee’s only argument in support of his MTD being “Specifically, he cannot establish that the resolution of this appeal is completely separate from the merits of the action.” MTD p. 3. This narrow factual dispute appears to be the only matter relevant to the instant motion. Without conceding any arguments to the merits of appeal and for the sole purpose of Opposing the MTD Appellant argues that the Appeal is separate from the merits of the case and offers the following facts and evidence in support thereof:

FACTS IN SUPPORT OF OPPOSITION

1. The Appellee’s Complaint fails to state a claim related to any roads or public rights the Appellee inserts into the instant MTD at p.1-2. See *Exhibit 1 - 371 Complaint*.
2. Appellee acknowledges Appellant has requested redress in relation to public roads. See MTD at p. 1-2 ¶¶1,3 and 7.
3. “I was told by somebody when I first purchased the property my lane, a/k/a, a road, went through there from my property into Keedysville, whether it was on my property, but that was way before my time, and there was no way to get through it. It was too grown up. I never used it. I never seen anybody use it.” See *Exhibit 2 - Deposition of Plaintiff Jeffrey Young 1.12.22.pdf* at 20:17-22.

² Notable Appellee Young’s new counsel entered an appearance on August 16th, 2022. Within 2 days counsel apparently reviewed up to 4669 pages of papers and pleadings in the record. Determined the Appeal was related to a “collateral order”, and that 3/4 criteria were met. Then Appellee proceeds to argue on the merits. To use the word frivolous when the instant opposition will present a genuine dispute of fact as to the 4th criteria is reckless indeed!

“There are three categorical exceptions to the general rule limiting appeals only from a final judgment: (1) interlocutory orders that are appealable by statute; (2) orders that are appealable by the common-law collateral order doctrine; and (3) orders that adjudicate completely one of multiple claims in an action and are certified (and certifiable) under Rule 2-602(b), or, alternatively, Rule 8-602(e)(1)(C).” *Salvagno v. Frew*, 388 Md. 605, 615, 881 A.2d 660, 666 (2005).

4. See *Exhibit 2 - Deposition of Plaintiff Jeffrey Young 1.12.22.pdf* at 62:10-25:

“Q. Okay. The Town of Keedysville, what factual information or personal knowledge do you have that The Town of Keedysville is contesting the use of the wagon road?”

A. I have none

Q. Why did you say The Town of Keedysville was contesting the wagon road?

A. Because part of the property that you claim as a wagon road belongs to the Town of Keedysville.

Q. And you just believe they are contesting it?

A. I don't know for sure.

Q. Have you ever talked to Richard Bishop about the wagon road, the Administrator for the Town of Keedysville?

A. Yes, I did. I asked him if he had any land records. I don't think he is there anymore, is he?”

GROUND AND AUTHORITIES

5. In accordance with MD. Real Property Code Ann. § 14-619 (a) “A judgment in an action under this subtitle does not affect a claim in the property or part of the property of any person who was not a party to the action, if, at the time the action was commenced: (1) The claim was of record; or (2) The claim was actually known to the plaintiff or would have been reasonably apparent from an inspection of the property.”
6. “That no man ought to be taken or imprisoned or disseized of his freehold, liberties or privileges, or outlawed, or exiled, or, in any manner, destroyed, or deprived of his life, liberty or property, but by the judgment of his peers, or by the Law of the land (*amended by Chapter 68I, Acts of 1977, ratified Nov. 7, 1978*).” *MD Cont. Declaration of Rights* § 24.
7. MD. Courts and Judicial Proceedings Code Ann. § 3-405 (2020) “ (a)(1) If declaratory relief is sought, a person who has or claims any interest which would be affected by the declaration, shall be made a party.”
8. See also *Williams v. Moore*, 137 A.2d 193, 215 Md. 181 (1957) where the Court affirmed:

“Section II of Art. 31A, (Code 1951), in part, states: “When declaratory relief is

sought all persons shall be made parties who have or claim any interest which would be affected by the declaration, * * *." This provision has been interpreted by this and other Courts on many occasions. It may be stated as a general rule that ordinarily, in an action for a declaratory judgment, all persons interested in the declaration are necessary parties. *Utica Mutual Insurance Co. v. Hamera*, 292 N.Y.S. 811; *Franklin Life Ins. Co. v. Johnson* (C.C.A. 10th), 157 F.2d 653. It has been held that the presence of necessary parties is jurisdictional, and this is a matter which the parties present cannot waive. *Redick v. Peony Park* (Neb.), 37 N.W.2d 801. The case of *Hine v. Blumenthal* (N.C.), 80 S.E.2d 458, was an action for a declaratory judgment in which the right to close an alley for a period of years was involved. It was held that the owners of the fee in the alley, which was subject to the easements involved in the suit, were necessary parties. See also *Redick v. Peony Park*, supra; *Garnick v. Serewitch* (N.J. Super.), 121 A.2d 423."

ARGUMENT

Appellee filed a Complaint in Washington County Circuit Court requesting a declaratory judgement that he adversely possessed Appellant's property (see *Exhibit 1*) where a road to Keedysville was located. Appellee filed a complaint for Quiet Title without naming an outstanding claim which was known to him and obvious by an inspection of the public records of the ("Road to Keedysville") in his complaint, see MD. Real Property Code Ann. § 14-619 (a). Appellee filed a complaint with mandatory joinder requirements and failed to join the necessary parties to proceed as to the public property described, see *Exhibit 2* and *Williams v. Moore*, 137 A.2d 193, 215 Md. 181 (1957). For the Appellee to have actual knowledge of the claimed right of the public, fail to challenge those rights in the trial court, and then argue that the rights are somehow tied to the merits of his case is ludicrous. Appellee failed to avail himself in the trial court and must be concluded as acknowledging/ accepting the public rights that Appellant has allegedly asserted and requested redress thereof, see MTD p.1-2. The Appellee had actual knowledge the Appellant had requested redress as alleged in the MTD. It is patently unconstitutional for the court to enjoin

Appellant from a public place that the Appellee acknowledged and failed to challenge and/or extinguish in the trial court, see *MD Cont. Declaration of Rights* § 24. The inference that Appellee filed his suit to enjoin a trespass where he had actual knowledge rights of the public existed, in order to chill the Appellant's request for redress is appropriate taking the alleged facts in the light most favorable to non-movant. The Appellee in his own complaint failed to assert any claim related to public property or roads on the property he claims to have adversely possessed and therefore the material fact in dispute should be decided in Appellant's favor. The Appellee's speculative merits of the appeal are not related to the merits of the case, and therefore all 4 criteria of the collateral order doctrine have been met.

CONCLUSION

WHEREFORE Appellee is relying on the speculative argument the appeal is from a "collateral order"; and

WHEREFORE Appellee has conceded that 3 of the 4 criteria for a "collateral order" have been met; and

WHEREFORE this Honorable Court having weighed evidence provided by Appellant in support of the dispute of the material fact relevant to the 4th criteria of a "collateral order" decided the appeal is "separate from the merits"; and

WHEREFORE Appellee placed facts not in the record in his Motion to Dismiss and failed to support those facts with affidavit, records or papers; and

WHEREFORE Appellee has failed to meet his burden to demonstrate this Appeal is improper in his Motion to Dismiss; and

WHEREFORE, the Appellant respectfully request the court deny the Appellee's Motion to Dismiss.

REQUEST FOR HEARING

Appellant requests a hearing on the Appellee's Motion to Dismiss. However, if the Court is persuaded after reading the Motion and the Opposition that the Motion should be denied, Appellant notes that Appellee did not request a hearing and the Appellant consents to denial thereof.

Respectfully submitted,



Justin K. Holder, Pro Se
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

VERIFICATION

My name is Justin K. Holder and I am over 18 years of age and competent to testify. I swear under the penalties of perjury and with personal knowledge that Exhibit 1 attached hereto is a true and accurate copy of the Complaint subject to this appeal and Exhibit 2 is a true and accurate copy of a portion of the transcription of a January 12th, 2022 deposition of Appellee Jeffrey Young in the instant case subject to the instant Appeal.

Justin K. Holder

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of August, 2022, a copy of the foregoing Opposition to Appellee's Motion to Dismiss - Request for Hearing to was served via the MDEC system to :

Victor Cretella, Esq.
Brandy Peebles, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*



Justin K. Holder, *Pro Se*

REQUEST FOR HEARING

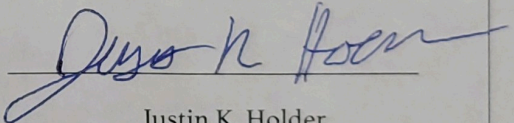
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Respectfully submitted,

Justin K. Holder, Pro Se
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

VERIFICATION

My name is Justin K. Holder and I am over 18 years of age and competent to testify. I swear under the penalties of perjury and with personal knowledge that Exhibit 1 attached hereto is a true and accurate copy of the Complaint subject to this appeal and Exhibit 2 is a true and accurate copy of a portion of the transcription of a January 12th, 2022 deposition of Appellee Jeffrey Young in the instant case subject to the instant Appeal.



Justin K. Holder

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of August, 2022, a copy of the foregoing Opposition to Appellee's Motion to Dismiss - Request for Hearing to was served via the MDEC system to :

Victor Cretella, Esq.
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, Pro Se

Justin K. Holder, Pro Se

IN THE CIRCUIT COURT FOR
WASHINGTON COUNTY, MARYLAND

Jeffrey Young,	)	
Plaintiff,	)	
V.	)	Case No.
Justin Holder, Et Al,	)	C-21-CV-20-000371
Defendants.	)	

Deposition of: Jeffrey Young
January 12, 2022

Held at: 308 West Chapline Street (Via Zoom)
Sharpsburg, Maryland 21782

Jackie Smith, Court Reporter
P.O. Box 143
Boonsboro, Maryland 21713
(301) 326-5199

Text

A P P E A R A N C E S

FOR THE PLAINTIFF:

David Pembroke, Esquire (Via Zoom)

PRO SE DEFENDANT:

Justin Holder

C O N T E N T S

JEFFREY YOUNG:	PAGE
Examination by Mr. Holder	4

A. It went up. It did a 90, and went over the bank of the creek.

Q. So it followed the abandoned railroad?

A. No. It followed my property line.

Q. On the north side?

A. Yes, down to the creek.

Q. Okay. And which way did it go to the west, was there another fence there, was there a big rock pile; can you describe what was there to the left?

A. It was a field and large boulders.

Q. And when we were talking earlier back in September, you had said there was a path there. Did you see a path there when you went out?

A. A path, it might have been a deer trail.

Q. You described it as a road. Was that accurate on September 13th?

A. I was told by somebody when I first purchased the property my lane, a/k/a, a road, went through there from my property into Keedysville, whether it was on my property, but that was way before my time, and there was no way to get through it. It was too grown up. I never used it. I never seen anybody use it.

Q. Have you ever had your house appraised by somebody?

A. Yes.

information you have that DNR is contesting this wagon road was gathered from the deposition on September 13th, 2021 in the Benjamin Estes matter where Attorney General Talley Kovacs asked you several questions about what you believe to be the wagon road?

A. Yes.

Q. Okay. And you have no other information, other than that?

A. No.

Q. Okay. The Town of Keedysville, what factual information or personal knowledge do you have that The Town of Keedysville is contesting the use of the wagon road?

A. I have none.

Q. Why did you say The Town of Keedysville was contesting the wagon road?

A. Because part of the property that you claim as a wagon road belongs to the Town of Keedysville.

Q. And you just believe they are contesting it?

A. I don't know for sure.

Q. Have you ever talked to Richard Bishop about the wagon road, the Administrator for the Town of Keedysville?

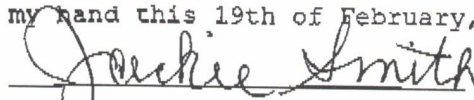
A. Yes, I did. I asked him if he had any land records. I don't think he is there anymore, is he?

IN THE CIRCUIT COURT FOR
WASHINGTON COUNTY, MARYLAND:

I, Jackie Smith, Court Reporter in and for the
aforesaid County and State, do hereby certify that the
foregoing is a true and correct transcription of the
deposition of Jeffrey Young in the matter of Jeffrey
Young vs. Justin Holder, Et Al, Case No.

C-21-CV-20-000430 held on the 12th day of January, 2022.

Given under my hand this 19th of February, 2022.



Jackie Smith, Court Reporter

P.O. Box 143, Boonsboro, MD 21713

(301) 326-5199

My Commission Expires: March 30, 2024

Justin K. Holder
 308 West Chapline Street
 Sharpsburg, MD 21782
 (240) 356 - 2001

May 23rd, 2022

Re: Motion to Bifurcate Trial -Rule 2-502 - Case C-21-CV-20-000371

To the Honorable Court,

On May 20th, 2022 the Parties had a pre trial conference with Honorable Judge Kenneth Long. During the Pre Trial conference, unfortunately no concessions or stipulations could be had. Reviewing the Pre - Trial Statements filed, the case apparently revolves generally around 4 distinct issues:

1. The fact of abandonment of private perpetual easements in title chains of Defendants.
2. The fact of adverse possession of "Parcel 3" plead in the complaint, see ¶4 of Plaintiff's Complaint.
3. Title to "Parcel 3" as plead in the complaint as "unknown", see ¶15 of Plaintiff's Complaint.
4. Outstanding Claims and clouds on the title of subject properties, not named but apparent from inspection of the Property and Public Record, including claims by the Local Government in which Defendants have requested redress. (Interlocutory Appeal pending).

Given the large scope and extensive discovery in this case, it does not appear possible to hear the evidence in 3 days. A bifurcation of the issues would be beneficial to judicial economy. This Defendant's experience is limited to discovery, however gauging the amount of exhibits and testimony in discovery of the aforementioned issues above, the Defendant Estimates:

1. Abandonment of Private perpetual easements - 1 day.
2. Adverse possession 3 days or if some undisputed facts are stipulated 2/3 day.
3. Title to "Parcel 3" 7 days, or if the Stone in the Bill *Quia Timet* filed can be quickly decided, 1/2 day.
4. Public rights of record, and outstanding claims - 10 days, or if stipulations on the 1937 J. B. Fergusson Atlas can be made, 2/3 day.

The Defendant will be serving approximately 50 trial Subpoena's next week. Some of the Subpoena's overlap, but the majority could be grouped in accordance with the above 4 issues. The Defendant will be pre - filing about 200 Exhibits to cross the Plaintiff's Experts with on title. This evidence has been provided in discovery and where Defendant found no genuine dispute, Plaintiff refuses to stipulate. As burdensome as it may be, the Defendant must protect his claimed rights and interest as it relates to a multitude of litigation and facts common to multiple claims and cases.

The Motion to Bifurcate in accordance with rule 2-502 would be 2 pages at most, and just ask the Court to decide if a bifurcation could serve judicial economy. The resolution of any 1 of the above 4

issues, could inspire fruitful settlement of the other 3 issues. If the fact of abandonment is decided for example, 2 Defendants may need to go no further, or in the alternative Plaintiff and Defendant may chose not to expend resources disputing a road bed. Either effectively ending the dispute.

The Defendant request permission in accordance with the case management order to file the Motion and place the issue of bifurcation for judicial economy before the Court. The Defendant only requires 1/2 days notice to prepare the Motion and serve it upon parties.

Respectfully,



Justin Holder
308 West Chapline Street
Sharpsburg, MD 21782
jholder2004@gmail.com
(240) 356 - 2008

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG

Plaintiff

v.

JUSTIN HOLDER, Et Al

Defendant(s)

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CASE NO.: C-21-CV-20-000371

NOTIFICATION OF NON - RETAINED EXPERT WITNESS DESIGNATION

COMES NOW Defendant, Justin Holder, in Proper Person, and files this Notification of "NON -Retained" Expert Witness Designation in accordance with discovery Rule 2-402(g) (1)(A) and Scheduling Order Rule 2-504(b)(1)(B). The Defendant Designates the following Experts:

Expert A - Historic Road Expert/Local Historian

Ted Ellis - Author of Local History Books and Reports

17437 Taylors Landing Road, Sharpsburg, MD 21782 (301) 432 - 7076

Local Historian whom has written 3 non fictional books/reports regarding the History of Colonial Keedysville, MD, Roads of Western Maryland and the Expert Report in the instant case on General Braddocks Neglected Route.

Expert A Report attached as Exhibit 1 - Braddocks Neglected Route.pdf**Expert A - Testimony - From the Expert's Book**

.....Several old deeds refer to "the road to Hess's Mill" from the Eakle's Mill and Mount Briar area. This road from Gapland to Dog Street is assumed to be more or less the original path from Crampton's Gap towards the Antietam. **It went straight across Dog Street** on a now nearly lost track. **Several old maps show this this road**

*Justin K. Holder***Pro se Litigator**

308 W. Chapline St.
Sharpsburg, MD 21782
t: (240) 356-2008
Jholder2004@gmail.com

directly opposite Mount Briar road's intersection with Dog Street. The road followed the west side of Little Antietam, just as Mount Hebron road follows the east side. The old [unused section of Mount Briar] road connected [Mount Briar] to Antietam Drive near its present dead end, formerly along the B & O rail road tracks. The following Map [1936 Atlas - see Expert B - Report] shows the now lost road which leads from this one, and by Hess's mill to his bridge. **Evidence of this road is still visible today.** This route fits the pattern of following topography for the gentlest slopes and avoiding stream crossings were possible. In fact, this route parallels the course chosen by the 1868 B & O construction engineers in siting the rail road grade for minimal changes in elevation. This route would have been through Hess's land for much of its course from Dog Street. Why then wouldn't this be the route of the Conococheague road? **This may be very generally, the course of the Indian road, the foot and bridle path from William Park's 1731 Park Hall. The petition to the Court in 1760 confirms it as a horse path at that date...**

Expert A - Retention

Mr. Ellis has not been retained. A letter requesting his deposition and offer to Retain his services was mailed on November 15th, 2021 and attached to this Notice as Exhibit B- Expert Communications

Expert B - Expert Land Surveyor/Engineer

Gerald A. Cump - Principal - Gerald A. Cump and Associates, Inc./ Triad Engineering

1075 Sherman Avenue, Hagerstown, MD 21740 - (301) 733 - 2211

Expert B - Report - Please take Judicial Notice of the - 1936 Atlas hanging in the land records room at the Washington County Circuit Courthouse.

Expert B - Testimony

On July 19th, 2021 at approximately 10:00 am the Defendant Justin Holder met

Justin K. Holder

Pro se Litigator

308 W. Chapline St.
Sharpsburg, MD 21782
t: (240) 356-2008
Jholder2004@Gmail.com

Expert Gerald Cump leaving the land Records room in the Washington County Courthouse. The Defendant discussed the approximately 12 foot wide “1936 Road Atlas of Washington County showing Road Districts & Road Numbers.” (1936 Atlas) *Revised October’ 37; By J.B. Ferguson & Co. Engineers, Hagerstown, MD.* In a detailed explanation the Expert proffered his resume of 50 years plus in the Land Survey industry and that the Expert began his career working for J.B. Ferguson Engineering, prior to owning his own survey company, and working for AESI in Hagerstown, MD. AESI is the Survey Company whom surveyed the abandoned Washington County Railroad in southern Washington County for the Department of Natural Resources. Mr. Cump offered his opinion to the Defendant while standing on the corner of Summit Avenue and Washington Street in Hagerstown, MD that “All the roads depicted on the 1936 Atlas were Public Roads”. The only opinion that Mr. Cump will be testifying to is the brief opinion provided on July 19th, 2021 in person to Defendant.

Expert B - Retention

Mr. Cump has not been retained as a designated Expert in this matter.

Expert C - Expert Land Surveyor/Engineer

Gary Castle - Gary Castle and Associates

13631 John Kline Road, Smithsburg, MD 21783- (301) 662 -6190

Expert Land Surveyor and Engineer with 30 years of experience and has been accepted by this Court previously as an Expert.

Expert C - Testimony

The Expert Surveyor executed a Deed to the Defendant’s claimed land that is a matter of the instant case. The Expert prepared plat 8292 for the adjoining property to this instant case, setting monuments and drawing the location of a “wire fence remaining” that allegedly outlines the “wagon Road”. The Expert will testify that

Justin K. Holder

Pro se Litigator

308 W. Chapline St.
Sharpsburg, MD 21782
t: (240) 356-2008
Jholder2004@Gmail.com

the Plat 8292 prohibits any fencing or permanent structures in the path outlined by “wire fence remaining”.

Expert C - Report - Plat 8292 recorded among the Plat records of Washington County, Maryland.

Expert C - Non - Retained Expert - Mr. Castle has not been retained as an expert.

Respectfully submitted,



Justin K. Holder, *Pro Se*
308 West Chapline Street
Sharpsburg, Maryland 21782
(240) 356-2008

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of November, 2021, a copy of the foregoing Notice of Expert Witness Designation was served via the MDEC system to :

Talley Kovacs, Esq.
Brandy Peebles, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*



Justin K. Holder, *Pro Se*

Justin K. Holder

Pro se Litigator

308 W. Chapline St.
Sharpsburg, MD 21782
t: (240) 356-2008
Jholder2004@Gmail.com

IN THE CIRCUIT COURT FOR WASHINGTON COUNTY, MARYLAND

JEFFREY YOUNG
PLAINTIFF

vs.

JUSTIN HOLDER, et al.
DEFENDANT

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*

CASE NO. C-21-CV-20-000371

LINE

COMES NOW, Plaintiff, Jeffrey Young, by and through undersigned counsel and hereby withdraws the designation of Frederic Fredericks as an expert witness in this matter pursuant to the Designation of Expert Witnesses, filed October 4, 2021 and the Supplemental Designation of Expert Witnesses, filed October 25, 2021.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Line was filed this 19th day of November, 2021, was emailed to Justin Holder at jholder2004@gmail.com. and to Robert Kline, III, Esquire at rkline@cookeandkline.com and to Brandy Peeples, Esquire at brandy@peeples-law.com



R. David Pembroke 8205010237
21 Summit Avenue
Hagerstown, MD 21740
301-791-5674
Rdpembroke1954@gmail.com

IN THE CIRCUIT COURT OF MARYLAND FOR WASHINGTON COUNTY

JEFFREY YOUNG

Plaintiff

v.

JUSTIN HOLDER, Et Al

Defendant(s)

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CASE NO.: C-21-CV-20-000371

LINE - Expert Witness Discovery Dispute

COMES NOW Defendant, Justin Holder, in Proper Person, and files this Line in accordance with the case management order, requesting permission to file discovery Motions under Rule 2-431, 2-432 and 2-433.

The very narrow issue Defendant Holder is attempting to resolve is Expert Communications and opinions between Plaintiff Jeffrey Young and his designated experts. Plaintiff has not produced any communications or reports from a survey Expert locating with metes and bounds the area of land Plaintiff claims to have adversely possessed and in the Defendant's original answer "*Defendant specifically denies the accuracy of said plat.[2499]*" Garrett Culler and Todd Moser (the "County Experts") were deposed early on in the instant case, then 3 month's after the deposition, the County Experts apparently signed affidavits¹ that substantively differ from prior testimony. The County writ' large has NOT produced any communications between Plaintiff and the County experts in deposition, a letter on Dec. 8th, 2021 specifically stating *inter alia* "The County reviewed its files and the County possesses no responsive communications between the County, or its employees, concerning County employees participating as expert witnesses in that case." The position that the County Experts affidavits just magically appeared 3 months after their depositions is untenable, and therefore Plaintiff must have some communications that are related to them.

¹ Plaintiff attached the affidavits as exhibits in Opposition to Deena Holder's Motion to Dismiss.

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Plaintiff requires an expert surveyor to describe the land he has allegedly possessed. Plaintiff has withdrawn Expert Frederic Frederick, Expert Christopher Joliet adamantly proclaimed in deposition he is not a surveyor, and had no survey training and The County Expert's clearly stated they never surveyed the subject property or studied deeds in the early depositions. On November 13th, 2021 Defendant Holder sent Plaintiff a detailed discovery letter in accordance with Rule 2-431 requesting the expert communications. Having no response on Jan. 9th, 2022, the Defendant sent ***Gmail - Final Demand - Rule 2-431 Good Faith Certification - Immediate Response Requested***, demanding documents and answers with specific discovery request cited as required by Rule 2-431, which were not produced.

Maryland Rule 2-432(a) specifies that a party may move for immediate sanctions without first obtaining an Order compelling discovery if the party "fails to serve a response to interrogatories under Rule 2-421 or to a request for production or inspection under Rule 2-422...[.]" Defendant request to move for immediate sanctions which include "An order that the matters sought to be discovered, or any other designated facts shall be taken to be established for the purpose of the action in accordance with the claim of the party obtaining the order;" *Rule 2-433 - Sanctions, Md. R. Civ. P. Cir. Ct. 2-433(a)(1)* as it relates to the Defendant's claim "***that plat 2499 is not accurate***" should be found in his favor, as Plaintiff has failed to produce an expert that can contradict the Defendants claim, made under oath, 30 days after service of Plaintiff's complaint. The expert that produced plat 2499 refuses to come to Court to defend the work and Plaintiff has had ample opportunity to locate, and produce an expert willing to testify about plat 2499 and neglected to do so. Plat 2499 is not accurate and Plaintiff exhibit should be stricken in accordance with Rule 2-433, as Plaintiff failed to prove his point with Expert testimony despite having over 18 month's to do so.

The Defendant's Motion will include: a) specific transcripts and discovery to support his allegations, b) the appropriate grounds and authorities and will be less than 10 pages. This is a straight forward request, and as harsh at it seems brought on by the Plaintiffs own neglect.

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Respectfully submitted,

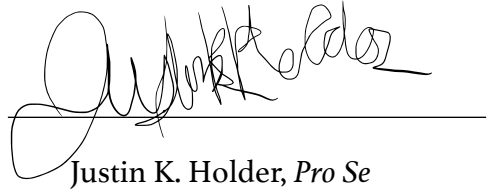


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of April, 2022, a copy of the foregoing Line was served via the MDEC system to :

Edward Kuczynski, Esq.,
Kevin Karpinski, Esq.,
R. David Pembroke, Esq.,
Brandy Peeples, Esq.,
Robert Kline, Esq.,
Justin Holder, *Pro Se*



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